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THESIS

**RETURN WITH HONOR: CODE OF CONDUCT TRAINING
IN THE NATIONAL MILITARY STRATEGY SECURITY
ENVIRONMENT**

by

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**RETURN WITH HONOR: CODE OF CONDUCT TRAINING IN THE NATIONAL
MILITARY STRATEGY SECURITY ENVIRONMENT**

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ABSTRACT

As the United States transforms from threat-based to capabilities-based combat operations, one must examine the ability of existing international laws, domestic directives, and Service regulations and training programs to protect American military and civilian prisoners of war, detainees, and hostages while under enemy control. This thesis explores the impact of The *National Military Strategy of the United States of America 2004* (NMS) security environment on existing Code of Conduct (CoC) training. A thorough examination and comparison of the existing legal framework to the future components of warfare provides a new context through which to evaluate existing CoC training programs and determine the overall applicability of the course content to the expanded spectrum of captivity. The Department of Defense must compensate for the lack of effective international protection by designing a conduct-after-capture program that addresses the rapidly changing conditions of different captivity situations. This thesis reveals that the existing CoC training programs and SERE skill sets lack the flexibility to enable the isolated person to rapidly adjust to changes in the future captivity environment and proposes a core captivity curriculum that provides an adaptable set of skills designed to enable the captive to survive and return with honor regardless of the captor or location of captivity.

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I. IMPETUS FOR TRANSFORMING CODE OF CONDUCT TRAINING

A. PURPOSE

This research explores the impact of The *National Military Strategy of the United States of America 2004* (NMS) security environment on Code of Conduct (CoC) training. The NMS describes the transformation of existing Department of Defense (DoD) human talent and operational capabilities in preparation for the future worldwide challenges presented in the *National Security Strategy of the United States of America* (NSS). As the strategic direction changes for all components of the United States military, it is critical to ascertain the required capabilities needed to achieve the desired goals, examine the existing training programs, and determine the most effective method to prepare the force for future joint and combined operations.

As the U.S. pursues the War on Terrorism (WOT) and prepares to combat both state and non-state threats in conventional and asymmetric environments, the DoD must prepare its military and civilian personnel for the mental and physical challenges encountered before, during, and after capture by an adversary. The current Level A, B, and C CoC training programs prepare DoD personnel for survival, evasion, resistance, and escape (SERE) throughout the captivity cycle in support of Personnel Recovery (PR) operations.

This paper will examine the historical and legal foundations of the modern day Code of Conduct and its applicability in the asymmetric threat environment. Following an analysis of the future components of conventional and asymmetric warfare, the study will explore the ability of existing CoC training to enhance the survivability of DoD, interagency, and multinational assets throughout the spectrum of captivity.

B. BACKGROUND

During peacetime and wartime, all military and civilian members of the U.S. Armed Forces risk capture and detention by hostile forces. Despite the many innovative technological advancements now employed for force protection,

military and civilian personnel still remain the most vulnerable asset in the warfighting arsenal. The increasing frequency of deployments in support of operations worldwide exposes DoD, United States Government employees, and multinational partners to asymmetric threats determined to capture and exploit American assets.

In May 2004, the Chairman of the Joint Chiefs of Staff introduced the NMS as the plan to transform current military capabilities to accomplish the objectives outlined by President Bush in the NSS. The DoD is transitioning away from a full-scale conventional war mindset focused on a particular threat or conflict location. Military force composition and capabilities of the future will enable America to pursue any adversary worldwide. CoC and SERE training must provide DoD personnel with a flexible set of captivity survival skills that mirror the fluidity of the battlespace.

C. SIGNIFICANCE

This study provides a mechanism to examine and expose potential deficiencies in the international legal rights and protections of POWs, detainees, and hostages. U.S. military and civilian personnel must enter the battlespace fully cognizant of the lack of legal protection and understand the vital importance of CoC training. A thorough examination of the envisioned NMS security environment and the future components of warfare provide a new context through which to evaluate existing CoC training programs and determine the overall applicability of the course content to the expanded captivity environment.

D. ORGANIZATION OF STUDY

This thesis analyzes the origins of the CoC and its associated training programs and, based on the future structure of conventional and asymmetric warfare, recommends a new training methodology to prepare U.S. forces for captivity.

Chapter II investigates the origin of the modern day CoC and the ability of existing international laws, domestic directives, and Service regulations and training programs to protect American POWs, detainees, and hostages. The review of the CoC progresses historically starting with the evolution of prisoner

treatment from the 1700s to 1900s and the events precipitating the creation of the Geneva Conventions and additional Protocols. The Geneva Convention analysis includes a discussion on determining combatant status and the relevance of the Conventions in the asymmetric environment. The Uniform Code of Military Justice (UCMJ) is then examined as the punitive mechanism for violating particular articles of the Geneva Conventions. The CoC is a moral guide that enables Service members to comply with articles of both the Geneva Conventions and the UCMJ. The history of the CoC and its application to detention and hostage situations is discussed prior to an examination of existing Service CoC regulations and training programs.

Chapter III concentrates on the future components of warfare, including the proposed force composition, security environment, and expanded battlespace. The increased exposure to conventional and asymmetric challenges necessitates a review of the spectrum of captivity and the potential political, economic, and military costs of captivity.

Chapter IV assesses the existing CoC training in light of the future components of warfare and proposes a new training program in line with the NMS. The research initially focuses on the moral and psychological foundations required to increase the effectiveness of the program. Subsequently, an evaluation of the existing Level A, B, and C programs, with the assistance of American officer and enlisted students at the Naval Postgraduate School and Defense Language Institute in Monterey, California, demonstrates the need for a new course. The core captivity curriculum training program represents a viable alternative to current CoC training. As contingency operations frequently involve U.S. government civilian employees and multinational partners, the final section explores non-DoD conduct after capture codes and training programs. International officers attending the Naval Postgraduate School provide valuable insights into their nations CoC programs.

Chapter V discusses the overall conclusions resulting from the study and provides recommendations for changes in policy, mindset, training, and supporting issues.

II. CODE OF CONDUCT: FOUNDATION FOR CONTEMPORARY SURVIVAL, EVASION, RESISTANCE, AND ESCAPE

A. OVERVIEW

The tenets of the Code of Conduct permeate all aspects of military life and serve as the framework for SERE-related training and operations. The CoC of today is steeped in the lessons learned from POW experiences throughout history and provides a mechanism for American military personnel to stay within the international and domestic legal boundaries established during the Cold War for the captivity cycle. As the United States transforms from threat-based to capabilities-based combat operations in the NMS security environment, one must examine the ability of existing international laws, domestic directives, and Service regulations to protect American military and civilian POWs, detainees, and hostages while under enemy control. Although the legal status and standards of treatment for American forces participating in conventional state-on-state conflicts are fairly well defined, the international law community has not fully addressed the many new post-Cold War “gray areas” of unconventional warfare that will undoubtedly affect personnel in the NMS battlespace.

As the international community develops new laws to address the ever-evolving nature of the threat, DoD regulatory guidance governing the actions of military, civilian, and contracted personnel must adjust to ensure proper compliance. International law, also referred to as the law of nations or *jus gentium*, directs the actions of states and international organizations through either treaty agreements or customary practices considered legally binding.¹ A brief examination of the historical evolution of prisoner abuse and exploitation reveals the genesis of the international and domestic laws governing the humane treatment of captured personnel. An analysis of the Geneva Conventions, Uniform Code of Military Justice, Code of Conduct, and DoD-specific regulations supports the assertion that the existing legal framework, while still applicable to

¹ U.S. Air Force Judge Advocate General School, *The Military Commander and the Law*, (Alabama: AFJAGS Press, 2000), 591-592 [hereafter referred to as: USAFJAGS, pp.#].

conventional warfare, does not adequately protect captives across the entire spectrum of captivity.

B. EVOLUTION OF PRISONER TREATMENT: 1700S TO 1900S

The treatment of POWs throughout history directly reflects the political and socio-cultural environment of the period. The evolution of the nature and prosecution of warfare caused a corresponding shift in the role of POWs. During the early seventeenth century, *jus gentium* prescribed that captured enemy personnel or materiel transferred ownership directly to the captor. Soldiers and sailors, if not killed immediately after capture, transitioned to the role of slave laborers. The carnage of war and brutal mistreatment of captives inspired Dutch jurist and humanist Hugo Grotius to propose a set of rules guiding militaries toward a more humanitarian form of combat. Although Grotius failed to gain support for the concept of humane standards of conduct in war, his ideas influenced the thinking of eighteenth century European philosophers and leaders. As conventional warfare evolved in European nations, particularly England and France, advocates called for reciprocal civilized treatment of enemy POWs. Subsequently, military personnel engaged in traditional force-on-force battle could expect reasonably civilized treatment after capture. The American Revolution introduced a unique challenge to the established international customs as American soldiers employed guerrilla warfare tactics in an insurgent-style uprising against the British government. Ineligible for POW status, captured American soldiers and sailors were harshly physically abused or executed as common criminals.²

Unfortunately, England set the standard of behavior for the American soldiers, as witnessed later in the Civil War. The blatant abuse and neglect of soldiers in internment camps outraged the American public and convinced President Abraham Lincoln to enlist the expertise of Columbia University Professor Francis Lieber to draft regulatory directives. “Issued on April 24, 1863, as United States War Department General Order 100, ‘Instructions for the

² Veterans Administration – Office of Planning and Program Evaluation, *POW: Study of Former Prisoners of War*, (Washington, DC: U.S. Government Printing Office, 1980), 23-25 [hereafter referred to as: Veterans Administration, pp.#].

Government of Armies of the United States in the Field,' the 'Lieber Code' was the first uniform code on treatment of POWs and was a milestone in the history of war."³ The Lieber Code contained, but is not limited to, the following guidance:

No belligerent has the right to declare that he will treat every captured man in arms...as a brigand or a bandit.

A prisoner of war is subject to no punishment for being a public enemy, nor is any revenge weakened upon him by the intentional infliction of any suffering, or disgrace, by cruel imprisonment, want of food, by mutilation, death, or any other barbarity.

A prisoner of war remains answerable for his crimes committed before the captor's army or people (for crimes) committed before he was captured, and for which he has not been punished by his own authorities.

A prisoner of war...is the prisoner of the government and not of the captor.

Prisoners of war are subject to confinement or imprisonment such as may be deemed necessary on account of safety, but they are to be subjected to no other intentional suffering or indignity.

A prisoner of war who escapes may be shot, or otherwise killed in flight; but neither death nor any other punishment shall be inflicted on him for his attempt to escape, which the law of order does not consider a crime. Stricter means of security shall be used after an unsuccessful attempt of escape.

Every captured wounded man shall be medically treated according to the ability of the medical staff.⁴

Additionally, the standards and principles contained in the Lieber Code later served as the groundwork for rules guiding the conduct of armed hostilities between sovereign nations, a subset of international law known as the Law of Armed Conflict (LOAC).

LOAC consists of two major elements, "...customary international law arising out of the conduct of nations during hostilities and binding upon all nations, and treaty laws (also called conventional law) arising from international

³ Ibid., 26.

⁴ Ibid., 25.

treaties and only binds those nations that have ratified a particular treaty.”⁵ During captivity, POWs are subject to the military laws of their own country as well as those of the enemy government. A prisoner can be held accountable for criminal acts committed prior to capture and throughout the detention period. LOAC treaty law contains agreements negotiated in the Netherlands at the Hague Peace Conferences of 1899, 1907, and 1914 and in Switzerland at the Geneva Conferences of 1864, 1929, 1949, and 1977. The Lieber Code, resurrected at the 1874 conference in Brussels, guided the discussions of the twenty-six member 1899 Hague Conference. The Hague and Geneva Conferences produced conventions designed to provide participating nations with minimum standards of acceptable and reciprocal conduct on the battlefield. While the resulting Hague Conventions center around lawful and illegal “means and methods” of conducting warfare, the Geneva Conventions outline the rights and protections afforded to military and civilian personnel engaged in combat.⁶ As the recognized foundation for American behavior in warfare, and an underlying basis for many conduct-after-capture training programs, one must examine the principles contained in the Geneva Conventions and the applicability to asymmetric warfare.

C. GENEVA CONVENTIONS

The 1864 Geneva Conference formalized protections for wounded soldiers and sailors and included the creation of the International Red Cross. *The Convention for the Amelioration of the Wounded in Time of War* provided for “...immunity from capture and destruction of establishments for the sick and wounded and their personnel; impartial reception and treatment of combatants; protection of civilians giving aid to the wounded; and recognition of the Red Cross as a means of identifying persons and equipment covered by the agreement.”⁷ The subsequent conference in 1929 introduced *The Convention Relating to the Treatment of Prisoners of War* in an effort to create a legally

⁵ USAFJAGS, 596.

⁶ Ibid., 596-597.

⁷ Veterans Administration, 27.

binding set of standards between the participating nations for conduct “off” of the main battlefield.

As with all international agreements, a state may be a party to the proceedings but not bound to the treaty until obtaining a signature, or interim acceptance, and final ratification, or official acceptance, of some or all of the draft provisions. An individual state may sign an agreement, with reservations, but fail to ever achieve ratification, as seen in the case of the 1929 prisoner convention. The blatant disregard for POW health and safety during the Second World War resulted in a call for a reevaluation and reaffirmation of the 1929 Convention’s requirements. The 1949 Geneva Conference developed four new agreements including the *Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (GWS), the *Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea* (GWS-SEA), the *Convention Relative to the Treatment of Prisoners of War* (GPW) and the *Convention for the Protection of Civilian Persons in Time of War* (GC).⁸ Additionally, in 1979, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict (Protocol I)* and *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflict (Protocol II)* provide guidance to address the changing nature of conflict throughout the world. Although all four of the Conventions and the two Protocols are critical to the well-being of military and civilian personnel in wartime, the GPW and Protocol I are the most contentious in light of today’s security environment.

The GPW outlines the rights, responsibilities, and protections afforded to POWs regardless of race, nationality, or political or religious belief and “...is an agreement between nations; consequently, a PW cannot renounce the rights secured for him by the GPW (Article 7) and/or the duties assigned to him

⁸ Ibid., 27-28.

(Articles 49-57)...”⁹ Divided into six sections, the GPW provides specific guidelines for both the captor and the POW throughout the stages of the captivity cycle. One of the key areas of controversy surrounding the GPW, particularly in view of current events in the WOT in Afghanistan and Iraq, involves the determination of who is classified as a combatant and thus eligible for POW rights and protections. “The war on terrorism has blurred the line separating renegade criminals and terrorists, who have no legal protections, from regular uniformed troops of nations at war, who have special rights specified in the 1929 and 1949 Geneva Conventions.”¹⁰ The Hague Regulations, Geneva Conventions, and the Protocol Additions outline the criteria for categorization as a combatant, unlawful combatant, or noncombatant.

1. Combatants

As per the Hague Regulations (HR) and the four Geneva Conventions, a lawful or privileged combatant is an individual authorized “...by competent authority of a Party to engage directly in armed conflict.”¹¹ Lawful combatants are subdivided into regular and irregular forces. Regular forces include a nation’s armed forces and any attached militia or volunteer forces. Irregular forces include members of militia or volunteer corps groups that are not connected to the regular armed forces, including organized resistance movements. Additionally, Protocol 1, Article 43 “Armed Force,” states that:

The armed forces of a Party to a conflict consist of all organized armed forces, groups, and units which are under a command responsible to that Party for the conduct of its subordinates, even if that Party is represented by a government or an authority not recognized by an adverse Party. Such armed forces shall be subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict. Members of the armed forces to a Party to a

⁹ U.S. Army Field Manual 21-78, *Prisoner of War Resistance*, (Washington DC: HQ Department of the Army, 1981), 11 [hereafter referred to as FM 21-78, pp.#].

¹⁰ David Wood, “U.S. POWs Could Face Brutal Treatment in Iraq War,” *Newhouse News Service*, 21 March 2003, 1. Available [online]: <http://www.newhousenews.com/archive/wood032103.html> [03 March 2004].

¹¹ U.S. Air Force Pamphlet 110-31, *International Law - The Conduct of Armed Conflict and Air Operations*, (Washington, DC: Department of the Air Force, 19 November 1976), 3-1 [hereafter referred to as AFP 110-31, pp.#].

conflict...are combatants, that is to say, they have the right to participate directly in hostilities.¹²

To secure combatant status and the associated legal protections, the irregular forces must be engaged in an international armed conflict and meet all of the following criteria provided in GPW Article 4A(2)(a-d): be under the command of a person responsible for his or her subordinates; have a fixed distinctive symbol or insignia recognizable from a distance; carry arms openly; and conduct operations in accordance with LOAC.

Neither the 1907 Hague Regulations nor the Third Geneva Convention explicitly stipulate that a member of regular armed forces has to fulfill the four criteria in order to be a prisoner of war in the event of capture. On the contrary, the four criteria, including wearing a uniform or at least a distinctive sign, are mentioned only for irregular forces and not for regular ones.”¹³

Combatants engaged in evasion or escape activities may don enemy clothing or feign civilian status without retribution under the condition that the evader does not attack the adversary or engage in military operations. Protocol I, Article 44 “Combatants and Prisoners of War,” which the U.S. is a party to but not signatory of, provides additional guidance to maintain combatant status:

In order to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack. Recognizing, however, that there are situations in armed conflict where, owing to the nature of the hostilities an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that, in such situations, he carries his arms openly: during each military engagement, and during such time as he is visible to an adversary while he is engaged in a military

¹² Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol 1) (8 June 1977), 19-20. Available [online]: <http://www.unhchr.ch/html/menu3/b/93.htm> [22 July 2004] [hereafter referred to as Protocol I, pp.#].

¹³ Toni Pfanner, “Military Uniforms and the Law of War,” *International Review of the Red Cross*, Volume 86, Number 853, March 2004, 114. Available [online]: [http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/5ZBE5X/\\$File/IRRC_853_Pfanner.pdf](http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/5ZBE5X/$File/IRRC_853_Pfanner.pdf) [12 August 2004].

deployment preceding the launching of an attack in which he is to participate.¹⁴

As reported by various American news agencies, President George W. Bush and his administration advocate that enemy militants captured in the WOT do not merit the legal status and rights of combatants due to the inability to meet the four customary irregular forces' requirements. According to Robert K. Goldman, a legal professor at the American University's Washington College, President Bush is setting a precedent that could harm American and Multinational forces if captured in current and future operations. "American special forces -- who also frequently wear civilian clothes -- could be considered 'unlawful combatants' with no legal rights, and could be captured and executed along with regular troops denied the status of combatants."¹⁵ Professor Goldman's assertion is only partially correct depending upon the activity that the individual Special Operations Force (SOF) member conducts while out of battle dress uniform.

SOF serve as a unique and essential element of America's warfighting capability that provides commanders with an elusive, independent, highly trained, and mobile force capable of performing sensitive and demanding aerial, ground, and sea-based missions. SOF personnel frequently conduct a variety of missions worldwide completely devoid of U.S. affiliation. While espionage and sabotage conducted by a "uniformed" member on behalf of a Party to a conflict are within the legal boundaries of LOAC, a soldier performing these acts out of uniform, e.g. while wearing civilian clothing, or in a disguise forfeits his or her privileged status according to the HR and GPW. Consequently, the individual is not granted POW status if captured and may legally be prosecuted as a common criminal according to the local laws of the captor.

With President Bush's declaration of a "war on terrorism," the U.S. is engaged in a declared state of international armed conflict with non-state, transnational actors and any state or non-state entities that sponsor terrorist

¹⁴ Protocol I, 20.

¹⁵ Wood, "U.S. POWs," 3.

organizations. In a conflict against an unconventional threat, American and multinational forces may resort to combat tactics and techniques deemed inappropriate under current rules for conventional warfare. Although SOF are not required by international law to wear distinctive uniforms or adhere to Service grooming standards to maintain combatant status, the wear of non-standard uniforms is not appropriate for all situations. Finally, while SOF are engaged in what the U.S. deems a legitimately declared armed conflict, personnel may still forfeit protected status if involved in perfidious acts. Perfidy involves an act that "...invites the confidence of the adversary that he is entitled to protection or is obliged to accord protection under international law, combined with intent to betray that confidence... such acts include... the feigning by combatants of civilian, noncombatant status."¹⁶ Any military member that commits perfidy during an international armed conflict assumes the status of an unlawful combatant.

2. Unlawful Combatants

Unlawful, or unprivileged, combatants include privileged combatants who do not comply with the customary requirements, individuals who directly engage in combat operations without authorization, and noncombatants who misuse their protected status to participate in armed conflict.¹⁷ The rights and protections afforded by the Conventions apply only to members of "state" entities that are bound to, and willing to abide by, the agreements. One could argue that, in addition to failing to meet the four customary criteria, terrorist and insurgent groups do not have authorization from a competent authority or maintain the required "state" status for recognition by the Geneva Conventions. Terrorists actively target noncombatant civilians, unarmed military personnel, and facilities or assets that possess symbolic value. The attacks on Khobar Towers, the USS Cole, and the Pentagon demonstrate an aggressive shift from purely civilian, noncombatant targets to operations directed against sizable military assets.

¹⁶ AFP 110-31, 8-1.

¹⁷ Ibid., 3-3.

Terrorists hit U.S. targets and then seek shelter among noncombatants or in facilities on the restricted targeting list, i.e., hospitals and religious structures.

Terrorists and insurgents do not warrant combatant status and, likewise, are not obliged to afford their hostages the rights and protections of the GPW and GC. Along similar lines, hostile governments that detain American military and civilian personnel during “peacetime” are also not required, per the GPW criteria, to extend special rights and privileges to the detainees. Peacetime government detentions, however, generally receive greater international scrutiny and failure to provide cursory protections can lead to severe political and economic repercussions. Any state or nonstate actor that engages in the prohibited act of taking of hostages is considered an unlawful combatant, as per the dictates of Protocol I, Article 75.

3. Noncombatants

The final category, noncombatants, includes civilians, civilians accompanying military forces, combatants who are unable to participate in the hostilities such as POWs and the wounded or sick, and retained personnel including military medics and chaplains. Retained personnel, while not considered POWs, warrant the rights and protections of the GWS, GWS-SEA, and GPW.¹⁸ The DoD’s push to outsource and privatize many of the military’s support functions resulted in the unintended consequence of an increased number of civilian governmental employees and contractors working on or near the battlespace who, though classified as noncombatants, are entitled to POW status per GPW, Article 4A(4). Media correspondents that travel with military units, referred to during the WOT as “embedded reporters,” are also granted POW status and must carry the Geneva Conventions Identification Card. Despite the special provisions for retained personnel in the Geneva Conventions, medics and chaplains historically received the same harsh treatment and sub-standard living conditions allocated to regular combatant POWs.

Journalists operating in the conflict zone not assigned to military units are considered civilians under Protocol I, Article 79 “Measures of Protection for

¹⁸ Ibid., 3-3.

Journalists” and do not warrant POW status. Additionally, members of nongovernmental or private voluntary organizations (NGO/PVOs) are not entitled to POW status but are increasingly falling into enemy hands with little to no training on how to deal with captivity situations. Noncombatants are progressively more the focus of terrorist operations. “Terrorists who do not care about the laws of warfare target innocent noncombatants. Indeed, their goal is to maximize the number of deaths and injuries among the most vulnerable civilians, such as children, women and the elderly... The terrorist leaders - who do not wear military uniforms - deliberately hide among noncombatants.”¹⁹ Unfortunately, the authors of Protocol I, II, and the four Conventions never envisioned the asymmetric threats that American forces face today.

4. Relevance of the Geneva Conventions in the Asymmetric Environment

As the U.S. increases its forward posture and presence to pursue security and stability operations worldwide, one must consider the applicability of the Geneva Conventions to the future security environment. Critics argue that the Conventions now benefit the enemy captors more than the captives. “The Geneva Conventions are so outdated and are written so broadly that they have become a sword used by terrorists to kill civilians, rather than a shield to protect civilians from terrorists. These international laws have become part of the problem, rather than part of the solution.”²⁰ In particular, terrorists frequently initiate attacks against U.S. military forces while surrounded by noncombatants or from restricted civilian facilities, i.e., hospitals, schools, mosques, etc., in the knowledge that America abides by LOAC and will hesitate to immediately retaliate. If the American forces legitimately strike back and inadvertently harm a civilian, the terrorists can manipulate the international media to condemn the strike. Against an asymmetric threat, one can expect neither reciprocity nor a “civilized” standard of conduct on the battlefield:

Terrorism and non-international armed conflict exacerbate the situation. It is extraordinarily difficult to exercise a high degree of

¹⁹ Alan Dershowitz, “Rules of War Enable Terror,” *The Baltimore Sun*, 28 May 2004, 1.

²⁰ *Ibid.*, 1.

care while effectively combating terrorists or rebels who are intentionally hiding their activities and identities. Indeed, they have little reason to distinguish themselves from the civilian population, for their actions are already criminal. Again, those charged with prosecuting the campaign against them have an incentive in such circumstances to interpret the care standard very liberally.²¹

American and coalition forces, indoctrinated and trained to strictly follow the many guidelines contained with LOAC, are predictable and easier to target. The application of LOAC and the Geneva Conventions is extremely difficult against terrorist groups. “Instead, the organization [al Qaeda] is conducting a violent campaign of isolated acts from many locations against numerous countries with forces under varying degrees of control from the al [Qaeda] leadership... al [Qaeda] controls no territory and because the GWOT is being carried out beyond the borders of the States conducting it.”²² The lack of a defined battlespace in the WOT, and the evolving nature of the threat, increases the opportunities for U.S. and multinational assets to fall into capture situations not addressed by the Geneva Conventions and the Protocols.

A U.S. military or civilian person separated from friendly control and forced to survive, evade, or escape, also known as an isolated person, is classified as a POW, detainee, or hostage when captured by an adversary. The GPW contains the rights and privileges afforded to POWs, including immunity from criminal prosecution for legitimate acts of war conducted during wartime or a declared international conflict. The captor is authorized to detain the POW until the cessation of formal hostilities. POWs are authorized to use force during escape and rescue activities. During peacetime or conflicts conducted without a formal declaration of war, however, captives are considered “detainees” that are subject to the local laws of the captor and authorized to use force only in self-defense. The detainee is held in custody for alleged violations of local or international laws, even if the military actions occurred under the auspices of a United Nations

²¹ Michael Schmitt, “Rethinking the Geneva Conventions,” *Crimes of War Project*, 30 January 2003, 7-8. Available [online]: <http://www.crimesofwar.org/print/expert/gc-schmitt-print.html> [4 August 2004].

²² Ibid., 3.

Resolution or other state-sanctioned military operation. As a “blue helmet” United Nations Force member or “non-blue helmet” United Nations Expert on Mission, the captive is immune from detention under the *1946 Convention on Privileges and Immunity for United Nations* and authorized to use force in self-defense but not for evasion or rescue efforts. If capture while engaged in a state-sponsored military action that is not supported by the United Nations, the detainee lacks protected legal status and is not authorized to use force during evasion or rescue attempts. Finally, if captured by a non-governmental entity or terrorist organization and held as leverage in the pursuance of a politically-motivated objective, the individual is considered a hostage and authorized to use force only in self-defense. While Protocol I and II condemn the taking of hostages for any reason neither document stipulates any protection mechanism or expected minimum standards of treatment for the detainee or hostage.²³

In its present form, the Geneva Conventions do not adequately address the needs of detainees and hostages or provide a mechanism for sovereign states to prosecute non-state transnational actors for criminal acts. Although the legal community adopted the “International Convention Against the Taking of Hostages” in 1979, subsequently supported under U.S. law “18 USC 1203 Act for the Prevention and Punishment of the Crime of Hostage-Taking” in 1984, many legitimate governments do not have the capability or resources to ensure the safety of foreign nationals living and working within their borders. Americans supporting Operation IRAQI FREEDOM face the possibility of capture and execution by Iraqi extremists. While the U.S. will make every effort to secure the return of its citizens, official government policy prevents the making of concessions to terrorists. Combatants held hostage or detained while participating in the WOT, and other future joint operations, cannot expect neither POW status under the Geneva Conventions or protection under U.S. domestic law. The international community may need to reevaluate the rights, protections, and restrictions contained within the Geneva Conventions. A potential

²³ Gary Percival, interview by author, written notes, Spokane, Washington, 16 December 2003.

amendment of the Conventions would consequently impact America's domestic military law. Since the primary statute that regulates the actions of military personnel is based on the Geneva Conventions, one must question if the articles of the Uniform Code of Military Justice pertaining to wartime conduct apply to non-traditional situations.

D. UNIFORM CODE OF MILITARY JUSTICE

To ensure military and civilian members of the Armed Forces comply with the dictates of the Geneva Conventions and other international laws, the United States Congress enacted a statute called the Uniform Code of Military Justice (UCMJ). The President of the United States, in his or her role as Commander-In-Chief, must enforce military discipline by executing the criminal law provisions of the UCMJ.

[A]ctive duty soldiers are subject to the UCMJ at all times, on and off post; reserve component soldiers are subject to military law when in federal service; and civilians may be subject to military law when serving with or accompanying an armed force "in time of war." The U.S. Supreme Court has ruled 'in time of war' to mean a congressionally declared war, and not contingency operations such as Southwest Asia, Somalia or Haiti.²⁴

Military personnel are not exempt from UCMJ jurisdiction even after the transition from combatant to POW status. UCMJ Article 99 "Misbehavior before the Enemy," Article 100 "Subordinate Compelling Surrender," Article 104 "Aiding the Enemy," and Article 105 "Misconduct as a Prisoner," stipulate that members of the United States Armed Forces will be held legally accountable for offenses conducted during hostilities including, but not limited to, surrendering to the enemy, compelling the senior ranking person to surrender, aiding the enemy by voluntarily providing information of intelligence value, mistreating fellow POWs, and seeking special treatment from the enemy. A determined legal professional could argue that the wording of Articles 99, 100, 104, and 105 preclude their use against offenses in an asymmetric environment due to the inclusion of the phrase "in time of war." In addition to the legal constraints of the UCMJ, U.S. personnel

²⁴ AFP 110-31, 6.

must also deal with the restrictions imposed by its allies in the form of Status of Forces Agreements (SOFA).

SOFAs are negotiated relationships between two countries wherein the host nation accords certain rights and responsibilities to members of U.S. Forces and accompanying civilians... the host nation may still retain the right to prosecute U.S. personnel for offenses that are either exclusive violations of host nation law or those over which the host nation has primary concurrent jurisdiction.²⁵

As the U.S. transitions from a strictly conventional to a “swift defeat” campaign stance against a variety of adversaries, the UCMJ may require revision of several articles currently tailored for traditional large scale warfare.

E. CODE OF CONDUCT

Although the Geneva Conventions and UCMJ provide the international and domestic legal and punitive guidelines for conduct in battle, Service members are rarely prepared for the physical and mental challenges of captivity. American soldiers, sailors, and airmen entering into the Korean Conflict lacked the tools need to deal with the harsh realities of enemy manipulation and exploitation. The six articles of the CoC, signed into existence in 1955, reinforced basic American ideals and established a guide for standards of personal behavior expected of all American POWs throughout the stages of captivity. Although strictly a moral guide, the CoC is designed to help U.S. military personnel survive enemy captivity with honor and adhere to the legal responsibilities of a POW contained within the GPW and UCMJ. An examination of the origins of the CoC reveals that although the basic spirit applies to non-POW captivity situations, several of the articles provide guidance that could prove detrimental in hostage and detainee situations.

1. History

During times of conflict, military personnel inherently assume the risk of becoming potential sources of information or propaganda for the enemy. After the Second World War, the role of POWs gradually shifted from expendable

²⁵ U.S. Army Pamphlet 690-47, *Civilian Personnel, DA Civilian Employee Deployment Guide*, (Washington, DC: Headquarters of the Army, 1 November 1995), 6 [hereafter referred to as DA PAM 690-47, pp.#].

asset or slave laborer to potential sources of information, propaganda tools, and students of indoctrination. German interrogators successfully demonstrated the ability to extract information from American POWs without excessive use of physical force. Psychological manipulation proved far more effective in obtaining accurate information than physical torture. The average U.S. soldier during this period in military history received little to no training on resistance methodology and relied solely on fighting spirit and ideals to survive. The Chinese interrogators during the Korean Conflict built upon the lessons learned by Germany and explored beyond simple information extraction into the concept of indoctrination or “brainwashing.” The Chinese used the intricate American soldiers’ minds as a testing ground for advanced manipulation techniques and set a new standard for exploitation. The U.S. government recognized the vulnerability of military personnel to exploitation and the resultant political and military consequences. “Experiences in World War II stimulated much thinking and some developmental work with respect to preparing US Service personnel to continue to fight -- to live up to American ideals -- in the event of capture. The furor over the Korean experience gave tremendous impetus to this development.”²⁶

In 1954, Secretary of Defense Charles Wilson assembled a committee to analyze the problems encountered in the North Korean and Chinese--operated POW camps. Although the Services separately maintained internal regulations and guidance governing POW conduct, the Armed Forces did not have a single, over-arching mechanism to help Service members survive against the newly emerging communist threat. The 1955 Defense Advisory Committee on Prisoners of War developed a six article “code of conduct” based on legal requirements and American values. The Committee presented the proposed code to Secretary Wilson just two weeks after the United States officially ratified the 1949 GPW. President Eisenhower approved the code and issued Executive Order (E.O.) 10631 charging all members of the military to live up to the

²⁶ U.S. Air Force Wing Regulation 50-2, *United States Air Force Survival School Code of Conduct Training*, (Spokane: 3636th Combat Crew Training Wing, 1983), 2-3 [hereafter referred to as Wing Reg 50-2, pp.#].

standards contained within the six articles of the Code of Conduct. "By creating a code simple enough for everyone to understand, the American armed services recognized the need to formalize ideals in order for POWs to share the risks in enemy captivity equitably."²⁷ In addition to the six articles, E.O. 10631 further stated that "...each member of the Armed Forces liable to capture shall be provided with specific training and instruction designed to better equip him to counter and withstand all enemy efforts against him, and shall be fully instructed as to the behavior and obligations expected of him during combat or captivity."²⁸ Secretary Wilson, in an 18 August 1955 memorandum to the Service Secretaries, reemphasized the importance of the CoC and outlined specific subjects required in the Service training programs.

Since 1955, E.O. 10631 evolved through several amendments to reflect changes in the governmental structure or political climate. The first change in 1967, E.O. 11382, replaced all references of the Secretary of Treasury within E.O. 10631 to the Secretary of Transportation. The exploitation of American POWs in the Indochina War era by North Vietnamese and Chinese interrogators, and subsequent public outcry, resulted in a change to the wording of the articles. The role of POWs changed once again from purely sources of information to instruments of propaganda activity. "Showing the prisoner to the captor's 'home folks'...provides living proof of the vulnerability of the prisoner...the lift to the morale of the captor people stems from the display...."²⁹ The North Vietnamese, and later the Iraqis during Operation DESERT STORM, used the American POWs to simultaneously boost the morale of their own people while attempting to demoralize the American public. Enemy exploitation of military personnel, during both peace and wartime, typically provokes a strong negative reaction within the American public that the enemy can use to gain a political advantage.

²⁷ Robert C. Doyle, *A Prisoner's Duty: Great Escapes in U.S. Military History* (Maryland: Naval Institute Press, 1997), 187.

²⁸ U.S. Army Pamphlet 355-106, *Code of the U.S. Fighting Man*, (Washington, DC: Headquarters of the Army, 23 September 1957), 1.

²⁹ Wing Reg 50-2, 6-1.

The 1976 DoD Defense Review Committee for the Code of Conduct reassessed and recommended changes to Article V, implemented in E.O. 12017, following the experiences of POWs in Vietnam against a communist threat employing asymmetric interrogation tactics and techniques. The third amendment, E.O. 12633 signed in 1988, rendered the CoC gender neutral in acknowledgement of the increased presence of females in the Armed Forces. The most recent amendment, E.O. 13286, reflects the 2003 creation of the Department of Homeland Security (DHS) and subsequent transition of the Coast Guard from the Department of Transportation to the DHS. According to the National Archives and Records Administration, CoC training is the only known component of military training that is mandated or supported by a Presidential Executive Order. Despite the evolution of the security environment, the DoD continues to use the six articles of the CoC as amended over sixteen years ago. The CoC articles, and a brief explanation of each, used by the senior leaders and warfighters of today are as follows:

The Code of Conduct

Article I: I am an American, fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

All men and women in the Armed Forces have the duty at all times and under all circumstances to oppose the enemies of the US and support its national interests. In training or in combat, alone or with others, while evading capture or enduring captivity, this duty belongs to each American defending our nation regardless of circumstances.

Article II: I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

As an individual, a member of the Armed Forces may never voluntarily surrender. When isolated and no longer able to inflict casualties on the enemy, the American soldier has an obligation to evade capture and rejoin friendly forces. Only when evasion by an individual is impossible and further fighting would lead only to death with no significant loss of the enemy should only consider surrender. With all reasonable means of resistance exhausted and

with certain death the only alternative, capture does not imply dishonor.

Article III: If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

The duty of a member of the Armed Forces to use all means available to resist the enemy is not lessened by the misfortune of captivity. Unless it is essential to the life or welfare of the person or another prisoner of war or to the success of efforts to resist or escape, a POW must neither seek nor accept special favors or privileges. One such privilege is called parole. Parole is a promise by a prisoner of war to a captor to fulfill certain conditions - such as agreeing not to escape nor to fight again once released - in return for such favors as relief from physical bondage, improved food and living condition, or repatriation ahead of the sick, injured, or longer-held prisoners.

Article IV: If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

Informing, or any other action to the detriment of a fellow prisoner, is despicable and is expressly forbidden. Officers and noncommissioned officers of the United States must continue to carry out their responsibilities and exercise their authority in captivity. The senior, regardless of Service, must accept command.

Article V: When questioned, should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

When questioned, a prisoner of war is required by the Geneva Conventions and this Code to give name, rank, service number and date of birth. The prisoner should make every effort to avoid giving the captor and additional information. Every POW should recognize that any confession signed or any statement made may be used by the enemy as false evidence that the person is a "war criminal" rather than a POW. Several countries have made

reservations to the Geneva Convention in which they assert that a "war criminal" conviction deprives the convicted individual of prisoner of war status, removes that person from protection under the Geneva Convention, and revokes all rights to repatriation until a prison sentence is served.

Article VI: I will never forget that I am an American fighting for freedom, responsible for my action, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

A member of the Armed Forces remains responsible for personal actions at all times. A member of the Armed Forces who is captured has a continuing obligation to resist and to remain loyal to country, Service, unit and fellow prisoners.³⁰

The 1977 and 1988 wording changes maintain the CoC's alignment with the Geneva Conventions and the articles of the UCMJ. Although the Geneva Conventions contain special provisions for chaplains and medical personnel, all Service members must adhere to the CoC without exception. Since the wording refers directly to Cold War-era POW situations and threats, many Service members question the CoC's applicability to the growing number of asymmetric detention and hostage events.

2. Application of Code of Conduct to Detention and Hostage Situations

The ever evolving nature of the battlespace since the Second World War exposes more personnel to the risk of being detained or held hostage by entities that do not adhere to the Geneva Conventions. From the late 1960s through the mid-1970s, American military and civilian personnel residing overseas lived with the constant threat of abduction by hostile foreign government entities or militant extremists outside of the context of a declared war. Due to the increased activity of terrorists, the 1976 DoD Defense Review Committee discussed the application of the CoC to "peacetime" captivity. The Committee concluded that despite the direct references to "prisoner of war," the spirit and intent of the CoC applied to all captivity situations. One critic, however, argued during the early 1980s that:

³⁰ "Code of Conduct In-Depth," 1-5. Available [online]: http://www.armystudyguide.com/code_of_conduct/in-depth.htm [16 June 2004].

Captivity may vary from a spontaneous hijacking by a psychopath to the carefully orchestrated takeover of an embassy by a foreign government. Such unstructured and diverse detentions make the code extremely difficult to apply. In most cases the captor is already outside the law and the hostage's fate and treatment will depend on other deterring factors such as unfavorable publicity, fear of reprisal, or promise of concessions. Consequently, arbitrary application of the articles will often not serve the best interests of either the hostage or his government.³¹

One must consider several unique factors faced in the changing security environment. Members in hostage and detention situations may not have the means or opportunity to avoid capture or attempt to evade as stipulated in Article II. The ability to establish a chain of command or make the decision to surrender or evade is further complicated by the presence of civilian employees, contractors, and multinational partners with different personal convictions and levels of training on determining the acceptable point of surrender. Article III is extremely difficult for inexperienced military members with only the basic CoC knowledge to apply to non-POW captivity circumstances. Many entry level CoC training programs do not address the methodology for resisting and escaping in hostage and detainee situations or discuss the conditions under a member of the Armed Forces may accept parole. The influence of television and movies further confuses young officers and enlisted personnel as to appropriate and realistic resistance postures or even the UCMJ definition of "parole" versus TNT's *Law & Order* police interpretation. "Resisting by all means available" can result in severe physical abuse or death in hostage situations. While attempts to escape are not advised during hostage situations, individuals who try to escape during a governmental detention may be in violation of local criminal laws and subject to prosecution. Although the Geneva Conventions provide specific guidance on the establishment of a chain of command in a POW camp, Article IV is difficult to enforce in an interagency and multinational environment.

³¹ Richard E. Porter, "Military Hostages: What They Need to Know and Don't," 3-5. Available [online]: <http://www.airpower.au.af.mil/airchronicles/aureview/1982/jan-feb/porter.html> [15 March 2004].

Article V's requirement to provide name, rank, service number, and date of birth, commonly referred to as the "Big 4" by military personnel, and evade providing additional information to the best of one's ability is unquestionably one of the most confusing and contentious issues in the asymmetric environment. "Big 4 and No More," a common memory aid in basic CoC training programs, prevents the detainee or hostage from establishing a level of rapport with the captor, excluding the compromise of sensitive military operations or information, that might facilitate release. The original intent behind the 1949 GPW's requirement for the "Big 4" centered on the determination of combatant and POW status. The 1976 DoD Defense Review Committee changed the wording of Article V, from "bound to give" to "required to give," as a compromise between the legal obligations of the GPW and UCMJ and the realities of prisoner interrogation and exploitation.

The ability of a POW, detainee, or hostage to successfully withhold personal information significantly diminished with the advent of the Internet. The DoD's use of a member's Social Security Number as the military Service Number enables a captor to access and exploit personal information through the Internet and subjects the captive to possible identity theft and fraud. During the early stages of the WOT, the Pentagon also wrestled with the issue of the personal information data microchip embedded in all Geneva Convention Identification (GCI) Cards, also known as the Common Access Card. American SOF personnel operating in Afghanistan removed and destroyed the microchips due to concerns that a computer savvy terrorist could retrieve and manipulate information contained on the microchip. While highly unlikely that a terrorist could successfully extract harmful data from the GCI card microchip, SOF personnel understood the importance of safeguarding personal and operational information. Without the benefit of the advanced CoC training courses, most DoD personnel are left wandering through the captivity minefield with few tools to deal with the physical, psychological, and legal challenges.

Due to the many uncertainties and trials of captivity as a detainee or hostage, the DoD decided to maintain the 1988 version of the CoC as a moral

guide versus a code of law and adjust the associated training to address the changing threat environment. "...although designed for evasion and prisoner of war (POW) situations, the spirit and intent of the CoC are applicable to Service members subjected to other hostile detention, and such Service members should conduct themselves consistently in a manner that avoids discrediting themselves and their country."³² Unfortunately, as demonstrated in every major conflict since Vietnam, the enemy has successfully captured and exploited personnel deemed "low value or low risk of capture" targets. The distributed battlespace does not have an established "front line," thus increasing the challenge for commanders attempting to determine who is low or high risk of capture. Although all military personnel are required to receive basic CoC training at some point in their career, currently only individuals deemed high value or risk receive the advanced training needed to clearly understand how to appropriately apply the CoC across the captivity spectrum.

F. SERVICE REGULATIONS, TRAINING, AND REALITY

As the international law community contemplates the viability of the Geneva Conventions within an asymmetric environment, the DoD must examine the effectiveness of existing Service regulations and training programs. Prior to 1955, the individual Services developed separate procedures and training to address the SERE challenges encountered during the Second World War and the Korean Conflict, all without top-level DoD guidance or deconfliction. The Air Force created a survival, evasion, and escape training school in 1949 and added resistance to the curriculum in 1953. Although E.O. 10631 established the requirement for each Service to have a CoC training program, senior DoD leadership left the Services to interpret the meaning and application of the CoC in a wartime environment. Secretary Wilson's 1955 memorandum specified the inclusion of:

[E]ducation in the basic truths and advantages of our democratic institutions and in the fallacies of Communism. Strong, effective

³² U.S. Department of Defense Instruction 1300.21, *Code of Conduct (CoC) Training and Education*, (Washington, DC: ASD(ISA). 2001), 9. Available [online]: <http://www.dtic.mil/whs/directives/corres/html/130021.htm> [12 August 2004] [hereafter referred to as DoDI 1300.21, pp. #].

leadership, group loyalties and esprit de corps must be fostered by every means. Each individual must be fully instructed as to his conduct and proper courses of action when faced with capture and as a prisoner of war. Individuals and units must be trained as to their proper procedures when isolated, surrounded or cut off. All must learn the methods by which enemy interrogation and indoctrination are resisted or avoided. Specialized training appropriate to service and individual requirements must be given in evasion and escape, resistance, prisoner organization and survival.³³

The Navy, Marine Corps, and Army created separate survival training courses during the late 1950s. The resultant disparities in the four training programs revealed the basic philosophical differences between the Services. To further complicate the issue, the 1 May 1960 “peacetime detention” of U-2 pilot Francis Gary Powers demonstrated the ability of an adversary to use a captive to politically humiliate an opponent at the international level and the inadequacy of CoC training for hostile peacetime government detentions. While the Navy added resistance to the program in 1962, the Marine Corps did not develop a resistance curriculum until 1978.

Despite the release of DoD Directive (DoDD) 1300.7, 8 July 1964, *Training and Education to Support the Code of Conduct*, Service members entered Vietnam with different and often conflicting instructions on POW responsibilities and conduct. The training inequalities created hardships for and cleavages between some multi-Service POW camp members. The DoD added to the POWs’ confusion with the release of additional guidance:

...on 3 July 1970, DOD policy was announced in a letter to the Armed Forces, “The U.S. approves any honorable release and prefers sick and wounded and long term prisoners first.” Additionally, limited parole against escape is permitted for specific limited purposes as authorized by the senior officer exercising command authority.³⁴

³³ Charles E. Wilson, “Training and Education Measures Necessary to Support the Code of Conduct,” (18 August 1955), 1.

³⁴ AFP 110-31, 13-7.

The overall POW community morale and cohesion suffered as new captives entered the camps with different training and regulatory guidance. As with the Korean Conflict, the DoD convened a Defense Review Committee to capture the lessons learned from the Vietnam War POW experience and identify the strengths and weaknesses of the CoC training program. The 1976 DoD Defense Review Committee, in addition to the revision of CoC Article V, recommended the standardization of all Service training through a single Executive Agent (EA). As the Secretary of Defense's EA for joint escape and evasion since 1953, the Air Force seemed the logical candidate to also serve as the EA for CoC training in 1979.

The increasing rate of peacetime government detentions and terrorist hostage incidents throughout the 1970s and early 1980s led to the revision of DoDD 1300.7, including guidance and training material on non-POW capture situations and the creation of a stratified risk-based training system known as Level A, B, and C.³⁵ All through the 1980s, the DoD made significant strides in CoC training, Personnel Recovery (PR) capabilities and procedures, and prisoner of war/missing in action (POW/MIA) accountability and repatriation issues. The mid-1980s also witnessed the consolidation of the Navy and Marine Corps schools and the creation of the first Army SERE training course. In 1991, the Air Force introduced the Joint Service SERE Agency (JSSA) as lead for POW/MIA affairs. Three years later, JSSA assumed responsibility for all PR issues. Despite the demonstrated need for integration, the Services continued to maintain separate SERE training schools because of an inability to overcome cultural differences and parochial attitudes. The world of PR caught the attention of the Office of the Secretary of Defense (OSD) in 1996 with the publication of Title 10, United States Code Sections 1501-1513, "The Missing Persons Act (MPA)":

The MPA places...requirements on the [Secretary of Defense] SECDEF. First, the SECDEF must establish within OSD an office having the responsibility for DoD policy relating to missing persons.

³⁵ The details of training Level A, B, and C are contained in Chapter Four of this thesis.

Second, the SECDEF is required to establish policies throughout DoD for personnel recovery (including search, rescue, escape, and evasion.) The establishment of the Defense Prisoner of War/Missing Personnel Office and the issuance of various publications concerning personnel recovery have satisfied these two requirements.³⁶

The Defense Prisoner of War/Missing Personnel Office (DPMO) provided oversight and integration for the Services and served as the mechanism to ensure "...coordination among DoD, [Joint Chiefs of Staff] JCS, Combatant Commands, and the interagency community."³⁷ Due to Service restructuring in the late 1990s, JSSA combined with several other organizations to form the Joint Personnel Recovery Agency (JPRA), subordinate to the United States Joint Forces Command. As the DoD's lead for joint PR support, JPRA assumed the responsibility for CoC training and works in coordination with DPMO.

Although the Services are reluctant to change the content of the CoC, the recognition of an expanding security environment forced OSD/DPMO to revise DoDD 1300.7 in December of 2000 and create two new DoD instructions (DoDI). The current version of DoDD 1300.7 is more succinct than the 1988 edition and authorizes the implementation of DoDI 1300.21, 8 January 2001, *Training and Education to Support the Code of Conduct*. DoDI 1300.21 contains an updated and expanded version of the CoC training guidance for wartime and peacetime captivity, previously included as enclosures to DoDD 1300.7. The increased role of civilians and contractors in contingency operations led to the creation of the second document, DoDI 1300.23, 20 August 2003, *Isolated Personnel Training for DoD Civilians and Contractors*.

DoDI 1300.21 provides formal guidance to help the isolated person apply the CoC to wartime, peacetime governmental detention, and hostage situations. As discussed earlier, POWs, detainees, and hostages are restrained by different

³⁶ "Department of Defense (DOD) Instruction 2310.5 'Accounting For Missing Persons,'" Fact Sheet, 31 January 2000. Available [online]: http://www.geocities.com/Pentagon/Camp/9276/dod_missing_persons.html [12 July 2004].

³⁷ Dan Baumgartner, *OSD/DPMO Personnel Recovery Policy Directorate Briefing*, 22 March 2004, Slide 9.

sets of legal implications and captor expectations. Subsequently, the guidance contained in DoDI 1300.21 is distinctly different and often contradictory for each captivity situation. Since a very small percentage of DoD personnel receive advanced SERE training, the majority of captured members will turn to the only known frame of reference, the six articles of the CoC, for all captivity situations. To further complicate the issue, each Service maintains separate CoC training regulations that, while in compliance with the OSD-level directive and instruction, provide different levels of emphasis and guidance.

The United States Air Force (USAF) supplements the OSD guidance with Air Force Policy Directive (AFPD) 16-13, 1 March 2000, *Survival, Escape, Resistance, and Escape (SERE)* and Air Force Instruction (AFI) 36-2209, 28 February 1994, *Survival and Code of Conduct Training*. The Air Force documents strive to instill within each Airman the knowledge, confidence, and motivation to survive and return with honor from POW, detainee, or hostage situations. All USAF members receive initial CoC training at the Basic Military Training School (BMTS), Officer Training School (OTS), Reserve Officer Training Corps (ROTC) programs, or the United States Air Force Academy (USAF A) and usually review the CoC again at subsequent Profession Military Education (PME) schools. Unlike the other Service documents, the USAF includes sections on legal obligation for self and family, personal physical readiness, and self-study requirements prior to deployments. Additionally, the Air Force is the only Service that recruits, trains and employs SERE specialists for the duration of their career.

United States Army Regulation (AR) 350-30, 10 December 1985, *Code of Conduct, Survival, Evasion, Resistance, and Escape (SERE) Training*, prepares the soldier for his or her responsibilities under the CoC. One of the more thorough and detailed Service-level CoC regulations, AR 350-30 is the only document that explores in detail the interconnected relationship between the CoC, GPW, and the UCMJ. The Army provides a standardization mechanism for subordinate units by specifying the contents of CoC training.

The United States Navy Operational Instruction (OPNAVINST) 1000.24B, 12 May 1989, *Code of Conduct Training* consists of two introductory pages and an attached copy of the 1988 DoDD 1300.7. Although the Navy and Marine Corps share the same SERE training schools, the Marine Corps maintains separate CoC training guidance. Marine Corps Order (MCO) 3460.1A, 11 June 1990, *Training and Education Measures Necessary to Support the Code of Conduct*, takes the guidance provided in DoDI 1300.21 and interweaves wording that reflects the Marine Corps spirit. MCO 3460.2, 2 December 2002, *Policy for Personnel Recovery and Repatriation* provides additional guidance that is well-written and geared toward future joint operations.

OSD's efforts to standardize CoC training in preparation for joint operations and capture situations are hindered by the maintenance of separate Service regulatory guidance and SERE training schools. Although few disagree that CoC training is an essential tool on the battlefield, junior and mid-level officers and enlisted personnel assert, as discussed in Chapter Four, that the CoC and its associated training are due for another intensive review.

G. CONCLUSION

Despite the increasing rate of detention and hostage situations since the 1970's, the international community has yet to provide a comprehensive legal framework for protecting Service members participating in both traditional and asymmetric warfare. Due to the nature of transnational terrorist and insurgent threats, it may not be possible to formally establish an enforceable minimum standard of acceptable behavior during military engagements or for treatment of captured personnel. U.S. military and civilian personnel must enter the battlespace with a clear understanding that the traditional rights, privileges, and protections afforded by the Geneva Conventions may not, and probably will not, be provided by the captor. As America approaches the NMS arena, the DoD must compensate for the lack of effective international protection by designing a flexible conduct-after-capture training program for the Joint Force that addresses the rapidly changing spectrum of captivity.

III. DEFINING THE FUTURE COMPONENTS OF WARFARE

A. OVERVIEW

With the end of the Cold War, and subsequent collapse of the Soviet Union in 1991, American military efforts now concentrate on a rapidly changing list of transnational challenges that require senior policy makers and military leaders to reconsider how to more effectively utilize limited military resources. "In the present era, the region of the world of most concern to the United States may change dramatically from month to month. In addition, issues or nations that were very far down on the list of priorities may quickly emerge at the top of the list..."³⁸ To achieve full spectrum dominance across a wide range of conflict situations, the U.S. must transform the defensive, reactive capabilities of existing political, economic, and military tools into an offensive, proactive force designed to disrupt the enemy's decision, planning, and execution cycles.

The *National Military Strategy of the United States of America 2004* (NMS) is the roadmap to guide the military's transformation from today's threat-based paradigm toward a future capabilities-based joint force structure prepared to engage and defeat new adversaries employing a variety of capabilities anywhere in the world. "Transformation is a process of change devoted to maintaining US military superiority in all areas of joint warfighting. It is an on-going process and must be continuous since our enemies will persist in attempts to neutralize or erode our superiority and exploit perceived weaknesses."³⁹ The ability to dominate across the battlespace requires not only modernization of existing weapons systems and technology but fundamental changes within the cultural mindset through an evolution of Service doctrine, training, and education. While adept at countering conventional state militaries that abide by LOAC standards, America fails to properly understand the nature of the asymmetric threat and the adversary's ability to manipulate the operational environment. Identification and

³⁸ Jeffrey T. Richelson, *The U.S. Intelligence Community* (Colorado: Westview Press, 1999), 470-471.

³⁹ Joint Chiefs of Staff, "Global War on Terrorism," 6-7. Available [online]: http://www.dtic.mil/jcs/chairman/Posture_Statement.html [10 August 2004].

comprehension of the enemy and the environment is vital in adjusting to both the unpredictable combat conditions encountered throughout the battlespace and the atypical treatment received while held in a wide range of captivity situations.

This is not the first time America recognized the need to transform its capabilities to counter an emerging threat. The fear of communism during the 1950s, particularly after the Korean Conflict, sparked a flurry of scholastic debate and subsequent flood of patriotic literature designed to reinforce American values and resolve in the event of combat against and potential capture by a Communist aggressor. "America must view the Communist treatment of captives as but another weapon in the world-wide war for the minds of men. The nation must recognize the duplicity of an enemy which pays no more than lip service to the Geneva Conventions."⁴⁰ The late 1950s discussions of how to prepare military members to face the challenges of the communist adversary in conventional large-scale warfare mirror the debates that rage in the halls of the Pentagon and Capital Hill today regarding conflict in support of the WOT against an elusive asymmetric enemy. Commanders at all levels of the WOT battlespace have the immense task of developing a full dimensional protection program that affords an appropriate level of security for personnel and materiel without impeding the ability to execute mission objectives or exceeding the acceptable level of risk.

As the U.S. develops a layered defense-in-depth approach to achieve the domestic and international goals stipulated within *The National Security Strategy of the United States of America* (NSS), military leaders must consider the increased exposure to threats that American forces face in an expeditionary environment and the unique requirements of the survival and captivity situations. "The presence of American forces overseas is one of the most profound symbols of the U.S. commitments to allies and friends."⁴¹ Due to the transnational nature of the evolving threat, military and civilian personnel of the DoD must learn to

⁴⁰ Report by the Secretary of Defense's Advisory Committee on Prisoners of War, *POW... The Fight Continues After the Battle* (August 1955), 31.

⁴¹ *The National Security Strategy of the United States of America 2004*, 29. Available [online]: <http://www.whitehouse.gov/nsc/nss/html> [12 August 2004] [hereafter referred to as NSS, pp.#].

effectively operate in combat and captivity situations with members of United States Government (USG) organizations and multinational partners. The dynamics of the expanded joint and combined relationship is further complicated by a security environment that spans from conventional to asymmetric threats across a battlespace that includes land, sea, air, space, and cyberspace. An expanded security environment exposes American and allied personnel to a wider spectrum of captivity situations. The high political, economic, and military cost of captivity necessitates the increased investment in pre-captivity, captivity, and repatriation preparation provided by CoC training.

B. FORCE COMPOSITION

Despite the vast amount of money and resources dedicated to weapons development, the single most important and vulnerable asset in the military arsenal is the personnel:

Success in all missions depends on our number one asset - our people. We must continue to keep faith with both our active and reserve component members, as well as our retirees. We also need to ensure they have the tools and facilities they need to accomplish their missions.⁴²

Within the NMS construct, the expanded pool of human resources engaged in domestic and international operations designed to reinforce the overall security of the American homeland is referred to as the “Joint Force,” which includes Active Duty, Reserve, and civilians working in coordination with interagency and multinational partners. “The ever-changing dynamics of global events will drive the need to integrate DoD and interagency capabilities and, in most cases, those of our multinational partners. Fully integrated operations employ only the right forces and capabilities necessary to achieve an objective in the most efficient manner.”⁴³ One must examine the implications of mixing the military’s Joint Force assets with United States Government (USG) organizations and multinational partner in a variety of security environments and an increasing spectrum of captivity situations.

⁴² Joint Chiefs of Staff, “Global War,” 10.

⁴³ United States Air Force Posture Statement 2004, 38. Author received emailed copy of document from member of United States Air Force Air Staff.

1. America's Joint Force

The diversity of America's Joint Force provides many unique challenges to the planning and successful execution of distributed operations. With an all-volunteer force, the DoD must harness the talents of individuals from vastly diverse ethnic, social, educational, and generational backgrounds with a variety of motivations for joining the Armed Forces or seeking civilian and contractor positions. With the expanded role of homeland security and increased commitments worldwide in support of the WOT, Active Duty forces can expect greater augmentation from Reserve personnel, including Individual Ready Reserves who do not perform regularly scheduled training but are called up during emergencies. The Joint Force must be prepared to implement the "1-4-2-1" construct:

The force must be sized to defend the US homeland while continuing to operate in and from four forward regions to deter aggression and coercion and set conditions for future operations. Even when committed to a limited number of lesser contingencies, the Armed Forces must retain the capability to swiftly defeat adversaries in two overlapping military campaigns. Additionally, when the President calls for an enduring result in one of the two, the force must have the capability and capacity to win decisively.⁴⁴

The extensive outsourcing and privatization efforts during the 1990s significantly increased the number of DoD civilian employees and contractors that directly accompany military personnel during deployments and contingency operations. DoD civilian employees constitute any "U.S. citizen or foreign nationals employed by the Department of Defense and paid from appropriate or non-appropriated funds under permanent or temporary arrangement. That includes employees filling full-time, part-time, intermittent, or on-call positions."⁴⁵ The DoD maintains contracts domestically and overseas with U.S. citizens, foreign nationals, and third country nationals which include "any individual, firm, corporation, partnership, association, or other legal non-federal entity...[for]

⁴⁴ NSS, 4.

⁴⁵ U.S. Department of Defense Instruction 1300.23, *Isolated Personnel Training for DoD Civilian and Contractors* (Washington, DC: ASD(ISA), 20 August 2003), 9 [hereafter referred to as DoDI 1300.23, pp#].

services, supplies, or both, including construction.”⁴⁶ Although the National Guard and Coast Guard are not permanent DoD assets, individuals and units can augment Active Duty operations under Title X authorization. The transnational nature of the threat extends the area of operation into the territory of non-DoD assets.

2. United States Government and Independent Organizations

The Joint Force shares the battlespace with civilian members of USG organizations, nongovernmental organizations (NGOs), private voluntary organizations (PVOs), and a variety of independent corporations including international journalists. The USGs commonly seen operating during contingencies include, but are not limited to, the Departments of State (DoS), Treasury, Defense, Commerce, Transportation, Energy, the Central Intelligence Agency (CIA), Federal Bureau of Investigation, National Security Agency, Defense Intelligence Agency, Drug Enforcement Agency (DEA), and U.S. members of the United Nations. The CIA, in particular, maintains a long and distinguished history of working with the DoD during contingency operations.

The U.S., a key player in the expansion of globalization, routinely sends USG personnel around the world to assist in the advancement of the political, economic, and social infrastructures of developing countries. American NGOs and PVOs are also frequently deeply entrenched within nations that later require DoD attention. Any American citizen operating outside the borders of the U.S. is a potential hostage or detainee. The Department of State and Chief of Mission are responsible for all USG employees, U.S. citizens, and Joint Force assets, excluding personnel specifically assigned to a theater Combatant Commander (COCOM), that reside overseas. During peacetime, the host nation government is responsible for the physical recovery of any non-COCOM, U.S. person who is detained or held hostage. In the event of a contingency or declared war, the Combatant Commander is only responsible for the physical extraction of Joint Force, USG, and coalition partners directly engaged in the U.S.-sponsored operation. The host nation remains accountable for the recovery of U.S.

⁴⁶ Ibid., 9.

personnel who reside in theater but are not assigned to participate in the military operation, i.e., Joint Force personnel attached to the local American embassy.⁴⁷ The Joint Force must be sensitive to the relationships that USGs, NGOs, and PVOs establish with the host nation as such contacts may play a critical role in the event of a personnel recovery operation.

3. Multinational Partners

The increasing succession of assaults by transnational terrorist organizations employing asymmetric tactics and techniques is compelling the U.S. to reexamine the traditional perceptions of threats and the need for worldwide cooperation and assistance. The unpredictable and violent attacks on unsuspecting civilian personnel, facilities, and infrastructure cause severe political, economic, and social disruptions that frequently affect the entire international community. Advanced nations can no longer attempt to thwart transnational threats without the assistance of other countries. “Strengthening regional alliances and coalitions helps to create favorable regional balances of power that help bring pressure to bear on hostile or uncooperative regimes. Multinational partnerships expand opportunities for coalition building through combined training, experimentation and transformation.”⁴⁸ Global cooperation is necessary to effectively and efficiently combat threats, particularly terrorist organizations. As the battlefield continues to expand into the realm of cyberspace, the international community can offensively track, target, and eliminate the ability of an adversary to obtain weapons of mass destruction, conventional weaponry, narcotics, and other potentially lethal substances.

The international community must unite in an offensive and defensive battle to interrupt the planning cycle and defeat transnational terrorists. Offensive use of military assets, particularly intelligence collection platforms, against terrorist organizations and sponsors of terrorism may enable

⁴⁷ DRAFT National Security Presidential Directive ____ “Recovery of Isolated or Missing U.S. Government Personnel Abroad.” 2. This draft document is available only through OSD/DPMO [hereafter referred to as Draft NSPD, pp#.].

⁴⁸ National Military Strategy of the United States of America 2004, 22-23. Available [online]: http://www.oft.osd.mil/library/library_files/document_377_National%20Military%20Strategy%2013%20May%2004.pdf [18 August 2004] [hereafter referred to as NMS, pp.#].

counterterrorist organizations to gradually decimate the terrorists' support structure. "In the current operational environment, the US employs its military in combined operations with military forces of other nations; whether US acts as part of a long-standing alliance commitment or an ad hoc coalition of forces, the PR community must be prepared and able to execute its mission in concert with other nations' forces"⁴⁹

C. SECURITY ENVIRONMENT AND THE BATTLESPACE

The Joint Force, USG and multinational partners face a wide range of threats across a complex battlespace. Conventional and asymmetric adversaries operate on the land, sea, air, space, and cyberspace domains of the battlespace. The fluidity of the operational environment and limited availability of resources heighten the need to understand the nature of the enemy. To achieve full spectrum dominance, the American military must analyze the enemy's capabilities. "A military structured to deter massive Cold War-era armies must be transformed to focus more on how an adversary might fight rather than where and when a war might occur."⁵⁰ The NMS describes the threat in terms of traditional, irregular, catastrophic, and disruptive capabilities.

1. Conventional - Traditional

Traditional threats include large-scale, force-on-force "...states employing legacy and advanced military capabilities and recognizable military forces, in long-established, well-known forms of military competition and conflict."⁵¹ In this case, the opponents generally abide by the laws of war and afford GPW rights and protections to captured personnel. The U.S. maintains a flexible deterrent option posture which includes weapons of mass destruction. With the dissolution of the former Soviet Union, very few nations maintain the capability to challenge the U.S. in the traditional arena. Due to the nature of the evolving threat, American military and civilian leaders must transition from a strictly "full-scale war" mindset to unconventional operations against an enemy employing

⁴⁹ 2001 Department of Defense Personnel Recovery Conference - Panel on Personnel Recovery in a Coalition Environment, Slide 1. Briefing available only through JPRA library.

⁵⁰ NSS, 29.

⁵¹ NMS, 4.

asymmetric tactics. “Some of these adversaries are politically unconstrained and, particularly in the case of non-state actors, may be less susceptible to traditional means of deterrence.”⁵²

2. Asymmetric – Irregular, Catastrophic, Disruptive

Unlike traditional warfare, asymmetric conflicts utilize a limited expenditure of force to achieve a political goal and involve the employment of unconventional tactics and techniques. Irregular threats use “...unconventional methods adopted and employed by non-state and state actors to counter stronger state opponents.”⁵³

After the Second World War, the transnational nature of the communist threat drove the requirement for a more flexible military capability. During the late 1960s, international terrorism diverted America’s attention from the spread of communism. Terrorist organization, particularly in Europe and the Middle East, threatened the safety of Americans abroad and the security of U.S. national interests. The German Red Army Faction (RAF) performed a series of bombings, assassinations, kidnappings of prominent political or business officials, hostage taking, and hijackings. Throughout the 1980s, U.S. and other North Atlantic Treaty Organization (NATO) member embassies, military facilities, and personnel were under constant threat of terrorist attacks. RAF activities were eventually overshadowed by the international activities of Middle Eastern terrorist groups. Fatah, and later the Palestine Liberation Organization (PLO), transitioned from military operations against the Israeli armed forces to actively targeting unarmed, geographically removed noncombatants associated with any nation perceived to support the Israelis in the conflict with the Arabs. The terror campaigns of the Irgun Zvai Le’umi (I.Z.L. or Irgun), the Freedom Fighters for Israel (Lehi), Fatah, and the PLO utilized tactics including bombings, shootings, airline hijackings, and assassinations against American citizens and facilities.

In the WOT, America potentially faces two old adversaries utilizing new methods and technology. Insurgents and transnational terrorist organizations

⁵² NSS, 4.

⁵³ Joint Strategy Review 1999, (Washington, DC: The Joint Staff, 1999), 4.

now aggressively exercise unconventional tactics against both civilian and military entities, regardless of the size and strength disparity. The events in Operation IRAQI FREEDOM raise the issue of how to distinguish between insurgent groups using terrorism as a political tool and transnational terrorist organizations. Initially, one must consider the differences between mass-based forms of political violence and terrorism. Insurgencies, revolts, and revolutions, though similar to terrorism in the desire to achieve a political goal, are mass-based upheavals that target the established political system or governmental body within a particular nation.

Insurgents and revolutionaries may resort to the use of terror in armed resistance against governmental officials and facilities, but typically only after nonviolent efforts fail to produce the desired changes in the existing political, economic, or social system. The small group militants seek to gain political independence, formal recognition of status, or territorial acquisition from the larger state entity by attempting to rally the support of the masses within their own subculture. The militants use terrorist tactics to invoke fear and provoke a reaction from their own people and the targeted government. The installation of fear within the indigenous population establishes a control mechanism to produce compliant cooperation or creates an image of superiority over the state. The use of terror against the state exposes weaknesses and usually provokes a more violent reaction that is exploited as a justification for escalation of aggressive action. Ultimately, the insurgents attempt to drive a wedge between the populace and the state.

Terrorist group campaigns differ from mass-based upheavals in member base and composition, tactics and techniques, target selection, transnational capability, and overall campaign strategy. Terrorism is the methodical application or instigation of violence by one group against another, not necessarily of the same nationality, to exert influence through intimidation in pursuit of self-proclaimed political goals. "Terrorism is not fundamentally a military problem; it is a political, social, and economic problem. A military, by its

nature, is not suitably structured, trained or equipped to defeat terrorism.”⁵⁴ Terrorism typically appears when a small group is unable to accomplish a particular goal in the preferred manner and timeframe with the desired results. It is not uncommon for a terrorist group to start as a radical offshoot of an insurgency movement, as in the case of West Germany’s Red Army Faction and Italy’s Red Brigade. “Individuals or groups use terrorism to gain objectives beyond their inherent capabilities. Employment of terrorist methods affords a weak nation an inexpensive form of warfare.”⁵⁵ The terrorists, who adamantly believe the accomplishment of the goal justifies the use of violent tactics, recognize that “...serious battle would clearly be suicidal, hence the recourse to stealth, surprise, suddenness, and the selection of targets for their symbolic value.”⁵⁶ The use of “hit and run” guerilla tactics enables the terrorists to engage a superior enemy without involvement in a protracted conflict. “Violent acts, or threats of violence, have been used throughout history to intimidate individuals and governments into meeting terrorist demands. Terror is inexpensive, low-risk, highly effective, and allows the weak to challenge the strong.”⁵⁷ Many groups, particularly in the Middle East, use religion to justify the initiation of an attack against individuals from different faiths.

The terrorist factions claim to represent the needs and desires of the masses to add legitimacy to the use of terror. The perception of legitimacy is shaped by the culture, history, and ideology of both the aggressor and the victim, hence the expression “one man’s terrorist is another man’s patriot.” In some cases, terrorism is used as an avenue to extract vengeance and is unrelated to the pursuit of a legitimate political or social goal. Government use of terror and terrorism demonstrates a desire to assert dominance, regain control of a situation

⁵⁴ Stephen H. Gotowicki, “Middle East Terrorism: New Form of Warfare or Mission Impossible?” *Military Review*, May-June 1997, 1. Available [online]: <http://leav-www.army.mil/fmso/fmsopub/issues/terror/terror.html> [7 August 2004].

⁵⁵ CJCS Handbook 5260, *Commander’s Handbook for Antiterrorism Readiness* (1997), 2.

⁵⁶ Joseba Zulaika and William A. Douglass, *Terror and Taboo: The Follies, Fables, and Faces of Terrorism* (New York: Routledge, 1996), 136.

⁵⁷ CJCS Handbook 5260, *Commander’s Handbook*, 1-2.

to prevent the loss of legitimacy or authority, or an inability or unwillingness to recognize the needs or desires of the constituents.

Although the occurrences of terrorism throughout history share similar characteristics, each case is shaped by the existing societal conditions and available technology. Traditional groups, referred to as revolutionary, modern revolutionary, and non-revolutionary modern terrorists, utilize conventional methods to generate terror. The new breed of terrorists employs terrorism in the name of religious ideology and ethnic or racial hatred. Islamic fundamentalists, millenarians, messianics, apocalyptic sects and cults, and Christian right wing groups use conventional methods and weapons of mass destruction. As conventional weapons become more monotonous and attract less international attention, radical groups will employ more extreme methods to further their causes. Unlike the traditional groups, the new generation groups are not bound by the same moral reservations and are not concerned with losing popular support. The apocalyptic religious groups, in particular, view biological and chemical weapons as a pestilence to bring about the end of the world and employ transnational asymmetric tactics, including suicide attacks, in pursuit of martyrdom, ethnic cleansing, or to seek revenge for perceived injustices.

The repetitive employment of conventional weapons by terrorist organizations around the world, however, has desensitized the mass populace to traditional violence. Terrorists must employ increasingly violent tactics against varied targets to generate terror and maintain the interest of the international media toward their cause. Additionally, the use of conventional weapons exposures the terrorist to potential harm and increases the possibility of detection by a counterterrorist organization. Catastrophic challenges include "...surreptitious acquisition, possession, and possible terrorist or rogue employment of WMD or methods producing WMD-like effects.⁵⁸ Weapons of mass destruction or effect (WMD/E), which include chemical, biological, radiological, nuclear, enhanced high explosive devices as well as other more

⁵⁸ NMS, 4.

asymmetric weapons, will continue to increase in lethality, enabling extremist groups to cause catastrophic infrastructure devastation.⁵⁹ WMD/E weapons enable the terrorist to deliver agents or materials without detection. The rapid worldwide expansion of terrorism, and persistent threat of WMD/E weapons deployment, accelerates the need for the international civilian and military community to learn how to effectively combat terrorists throughout the battlespace. WMD/E weapons produce both physical and psychological devastation to a nation's infrastructure and impacts the international community. The actual or threatened use of WMD/E weaponry creates panic that can disrupt the political, social, and economic operations of a nation. The proliferation and ease of acquisition of WMD/E weapons continually elevates the concern within the international community of mass casualties and infrastructure devastation.

Transnational terrorist organizations and radical groups or individuals often lack access to money, materials, or knowledge needed to support employment of WMD/E technology and require the support of a state sponsor to effectively employ a strategy of unconventional warfare. Most state sponsors conduct support activities clandestinely to avoid retaliation from other international entities or prevent damage to developing political relations with Western nations. The sponsor can use the extremist group to accomplish a hidden political agenda against an adversary without jeopardizing its position in the international community. As part of the WOT, the U.S. vowed to pursue any country or entity that supports terrorist groups or activities. "We make no distinction between terrorists and those who knowingly harbor or provide aid to them."⁶⁰

With the assistance of state sponsors and the Internet, terrorists can acquire all of the components to produce WMD/E devices. The accessibility and privacy afforded by the Internet enables state sponsors to provide all of the components and knowledge required to assemble a weapon of mass destruction. Chemical, biological, and high yield explosive weapons are now easier to

⁵⁹ Ibid., 1.

⁶⁰ NSS, 5.

produce outside of laboratory environments, enabling extremists to assemble weapons within private residences. Poorly regulated control over existing biological and chemical weapons programs enabled groups like the Aum Shinrikyo and al Qaeda to attempt acquisition of chemical and biological agents. Since the dissolution of the former Soviet Union, radiological and nuclear materials are easier to obtain due to poor regulation of nuclear materials, lack of security at nuclear storage facilities, and an active Russian black market. Despite the increased likelihood that a radical terrorist group could obtain the materials for a nuclear or radiological device, the specialized knowledge and restrictive handling procedures decreases the possibility of successful deployment of such devices. The materials, technology, personnel, information, and money provided by state sponsors shape the tactics and techniques used by the extremists.

In addition to catastrophic challenges, the U.S. must address non-WMD/E threats to the political, economic, and military infrastructure. Disruptive threats are "...those likely to emanate from competitors developing, possessing, and employing breakthrough technological capabilities intended to supplant an opponent's advantages in particular operational domains."⁶¹ Despite a significant military advantage throughout the globe, the U.S. is vulnerable to economic exploitation by states, independent organizations, or individuals with superior technological capabilities. Research and development in any field that provides another country an advantage over America is considered a disruptive threat, i.e., information technology, medicine, energy resources, communications food production, etc.

The unrestricted access to advanced commercial-off-the-shelf (COTS) equipment also possesses a challenge to military and law enforcement officials. The availability of advanced technology, provided by a state sponsor or produced internally, influences the ability of terrorist organizations to exist and operate despite the aggressive surveillance and reconnaissance efforts of international

⁶¹ NSS, 4.

counterterrorist (CT) organizations. Advanced weapons, secure communications, computers, security devices, and intelligence-gathering equipment are essential to thwart the efforts of CT organizations. The development and operational capabilities of terrorist groups suffer within societies that employ advanced technology against terrorism.

With the expanding spectrum of threats, from traditional state-on-state to irregular non-state actors, the U.S. and its allies must face the possibility of capture in a wide range of environments. The varied capabilities of traditional, irregular, catastrophic, and disruptive threats present a constant threat in peacetime and during contingency operations.

D. SPECTRUM OF CAPTIVITY

As the Joint Force transforms its mindset and training away from specific adversaries and conflict locations to capabilities tailored toward how an adversary fights, one must also consider the ability of an adversary to exploit captives within the new security environment and battlespace. Captors operate within political, social, and economic environments that place limitations on behavior and actions. The spectrum of capture situations fall within one of three environments: constrained, blended/adaptive, and unconstrained.

1. Constrained Environment

Within a constrained environment, the captor is part of an internationally recognized governmental entity that is influenced by both the legal accountability and reciprocity rules imbedded within international law and the potential impact on political and economic standing as determined by world opinion.⁶² The detainee generally does not have great influence over the release process, which usually requires official diplomatic intervention. In the performance of official peacetime duties, DoD personnel may purposefully or inadvertently violate the sovereignty of another country.⁶³ In July 1995, China detained Colonel Joseph Chan and Captain Dwayne Florenzie, attaches assigned to the U.S. Consulate General's office in Hong Kong, for allegedly sneaking into a restricted area

⁶² Margaret Strub and Steven Kelly, interview by author, written notes, Ft Belvoir, Virginia, 25 March 2004.

⁶³ Percival, 16 December 2003.

located within the vicinity of Beijing and photographing the activities of a sensitive military exercise. International media coverage and extensive diplomatic efforts convinced the Chinese government to release both officers after a brief detention.

Similarly, China detained the twenty-four multi-Service crew members of an American Navy EP-3 surveillance aircraft that collided with a Chinese F-8 fighter and eventually landed on Chinese soil in April 2001. China released the crew after twelve days of intensive diplomatic negotiations and international scrutiny. In both detention situations, China openly acknowledged the detention of DoD personnel and conducted formal negotiations with American political officials to secure the release. Although subjected to interrogations and varying degrees of mental and physical distress, all of the detainees returned to U.S. control relatively unharmed.⁶⁴

Occasionally, a hostile government will detain personnel without formal notification to the captive's government. In June 2003, Iran detained four West Virginia National Guard soldiers, one U.S. Army contractor, and several foreign nationals traveling in a boat on the Shatt Al Arab River in support of Operation IRAQI FREEDOM. Unbeknownst to the U.S. government, Iran interrogated and released the crew after twenty-nine hours of detention.⁶⁵ The potential political, economic and almost certain military fallout of detaining American citizens may have motivated Iran to avoid official notification and quickly release the captives.

The most commonly known captivity situation within a constrained environment is the capture of DoD personnel during wartime. The captive is classified as a POW and afforded the rights and protections stipulated within the Geneva Conventions. POWs do not directly facilitate the release process and are legally held until the cessation of formal hostilities. Extensive literature is available detailing the experiences of POWs in the Korean Conflict, Vietnam War, and Operation DESERT STORM.

⁶⁴ Ibid., 16 December 2003.

⁶⁵ Mike Cadle, "W.Va. Soldiers on OIF Mission Detained by Iran," *The On Guard*, August 2003.

2. Blended/Adaptive Environment

Captors within blended/adaptive environments include irregular non-state actors and quasi-governmental entities that, while somewhat concerned with international acceptance, have some form of political agenda or objective and are influenced by the opinion or acceptance of local constituents.⁶⁶ The captive is considered a detainee or hostage and rarely exerts any influence over the release process. The captor, in directly violation of international law, uses the isolated person to gain attention from a particular audience and will demonstrate some degree of restraint in the use of violence.⁶⁷ In blended/adaptive environments, the captive may fall under the control of several different quasi-state and non-state actors within a short period of time and subsequently transition between hostage, detainee, and POW status. The captive may lack the situational knowledge, e.g., identification of the captor and corresponding legal status, needed to correctly select the appropriate guidance as provided in DoDI 1300.21.

In conflicts between members of the same nation, the indigenous actors do not have state status and are not normally bound to the restrictions of international law. Yugoslavia is an unusual case of indigenous conflict in which the U.S. participated as a third party under the auspices of the United Nations and the North Atlantic Treaty Organization. In 1999, Federal Yugoslavian Forces captured three U.S. Army soldiers that strayed into Macedonian territory. Although all three soldiers served under Expert on Mission status, the U.S. classified the troops initially as detainees and later declared that the troops warranted POW classification. After thirty-two days of captivity, American Reverend Jesse Jackson negotiated the formal release with Serb officials.⁶⁸

Despite the expanded criteria for combatants under Protocol I, most factional quasi-governments and ordered revolutionary forces that possibly qualify as a combatant typically fail to abide by the laws of war and are therefore

⁶⁶ Strub and Kelly, 25 March 2004.

⁶⁷ Percival, 16 December 2003.

⁶⁸ Ibid., 16 December 2003.

considered unlawful combatants. Although not recognized by the international community, the Taliban served as the de facto ruling entity of Afghanistan. Similarly, General Mohammed Farah Aidid hoped to secure formal recognition as the leader over Somalia's collection of warring tribal factions in the early 1990s. The well-documented 1993 shutdown of Blackhawk helicopter pilot U.S. Army Chief Warrant Officer 3 Michael Durant provided Aidid with an opportunity to gain recognition from the U.S. Initially, local Aidid sympathizers held Durant hostage, in the hopes of collecting a ransom, before turning him over for detention under the local militia. Durant eventually came into the custody of Aidid who, in the hopes of attaining political recognition from U.S., conferred POW status, rights, and privileges on the injured pilot. In the span of a few hours, Durant unknowingly transitioned from hostage to detainee to pseudo-POW.

The take over of the American Embassy in Teheran, Iran is another example of a captivity situation in which the isolated personnel transitioned from hostage to detainee status. In November of 1979, 450 Iranian students conducted a sit-in protest at the American Embassy, purportedly at the urging of Ayatollah Khomeini, because the exiled Shah received medical treatment in a U.S. hospital. The nonviolent sit-in turned into a siege and hostage situation involving 66 military and civilian American personnel.⁶⁹ The involvement of the Ayatollah makes the captivity situation a possible governmental detention. After intensive political negotiations, and a failed attempt at a military rescue, the hostages returned home following 444 harrowing days.⁷⁰

3. Unconstrained Environment

Non-state, irregular actors operating in an unconstrained environment pursue self-proclaimed, politically-motivated goals and demonstrate the least predictable captor behavior. International condemnation does not dissuade terrorist groups which, in most cases, thrive on the media attention. The hostage plays a great role in determining treatment and prolonged survival, as

⁶⁹ The interpersonal dynamics between the military and civilian personnel during the hostage crisis will be explored in Chapter Four.

⁷⁰ Percival, 16 December 2003.

demonstrated in the 1981 kidnapping of U.S. Army Brigadier General James Dozier by the Italian Red Brigade. Brigadier General Dozier used interpersonal skills to establish a relationship with some of his captors. Italian antiterrorist forces rescued General Dozier after 42 days of captivity. SW-2 Robert Dean Stethem, a U.S. Navy diver, did not have the opportunity to establish a relationship with the terrorists that hijacked TWA Flight 847 in June of 1985. Shiite extremists, upon discovering Stethem's DoD affiliation, tortured and killed the diver to compel the international community to concede to a variety of demands.⁷¹ As of this writing, the U.S. is working with the Colombian government to secure the release of three DoD contractors kidnapped by the Revolutionary Armed Forces of Colombia (FARC) in February 2003.⁷²

E. COST OF CAPTIVITY

Unlike the loss of a piece of military hardware, the capture of one Joint Force, USG, or multinational asset carries a high political, economic, and military cost.

1. Political

As witnessed with the detainment of U-2 pilot Francis Gary Powers, the capture of one U.S. person can impact national policy, will, and morale. Captives are political bargaining chips that can influence governmental decisions. In constrained environments, diplomatic efforts to secure the release of captive often involve official apologies for real or fabricated infractions. Skillful enemy interrogators can extort confessions to crimes never committed and induce the isolated person to give information for propaganda purposes. Photographs and televised news broadcasts around the world of "brainwashed" American POWs in Vietnam, the beaten faces of pilots in Operation DESERT STORM, or the dead body of an Army Ranger dragged behind a truck through the streets of Mogadishu enraged the American people and influenced the actions of political leaders. Political analysts speculate that the Iran hostage crisis significantly contributed to President Jimmy Carter's failed reelection bid.

⁷¹ Ibid., 16 December 2003.

⁷² Daniel Baumgartner, interview by author, written notes, Washington, D.C., 24 March 2004.

Terrorist groups, in particular, demonstrate exceptional skill in manipulating the international media. “The terrorists’ primary intent is to cause fear in America’s civilian population, in order to coerce a change in U.S. policy... The terrorists will use repeated terrorist acts and an amplification through ‘friendly media sources’ and engage in the use of propaganda in an attempt to intimidate the American population.”⁷³ As the Joint Force increasingly deploys forward to conduct operations in blended/adaptive and unconstrained environments, with embedded or independent journalists providing live coverage, the U.S. government should carefully consider the political consequences incurred with the capture of minimally training Joint Force asset versus the monetary expense required to improve and expand CoC training.

2. Economic

Human asset are unquestionably the most expensive item in the DoD budget. The cost associated with recruiting, training, equipping, sustaining, and retaining every military and civilian member of the Joint Force is astronomical. The overall value of each person in terms of experience, knowledge, and talent, while incalculable, is equally impressive. The DoD expends a vast amount of time, money, and equipment resources to prepare all deployed forces for operations within a chemical or biological environment because the possibility exists that the enemy may possess WMD/E. The same thought process applies to CoC training:

Because SERE training, unlike pilot training and the like, does not have an immediate application, the question of its utility is always present until military personnel are called upon to survive in a hostile environment or endure captivity. The corollary questions of “cost effectiveness” or “cost benefit” have also arisen as critics of SERE training point to the low percentage of trainees who actually have to apply their knowledge.⁷⁴

⁷³ C.L. Staten, “War on Terror-2001: What We Expect in the Coming War on Terrorism,” 1. Available [online]: <http://www.emergency.com/2001/war-on-terror-2001.htm>.

⁷⁴ Headquarters, United States Air Force Prisoner of War Experience Analysis Program. “Analysis of Returned POWs - Evaluation of Survival, Evasion, Resistance, Escape (SERE) Training,” Report No. Series 700-EA-2 (March 1976), 64. Restricted access document – available only through JPRA library [hereafter referred to as AFPOW EAP 700-EA-2, pp.#.].

Unlike chemical and biological warfare preparation, CoC training is applicable during peacetime and contingency operations, in-garrison or deployed, and at any location around the world. Level B and C CoC training provides a mechanism to indoctrinate DoD assets with the basic beliefs and moral principles that serve as the foundation of American society; reinforces the importance of faith, discipline, teamwork, and support for the chain of command; and instills the knowledge and confidence to survive in a variety of capture and non-capture situations.

If we take the narrow position that SERE training exists solely to prepare our servicemen for a contingency we hope will occur, we might conclude that the cost is high and the benefit is low. On the other hand, if we evaluate the number of successful recoveries from operational accidents or combat incidents which are attributable to SERE training, the cost seems somewhat more acceptable - at least when one considers the offsetting cost of training a replacement aircrewman with comparable experience. But what value do we place on propaganda thwarted, military secrets not lost, or national "image" preserved? Similarly, what value do we place upon servicemen gaining self-assurance, maturity, interpersonal relations skills, motivation, patriotism, ability to cope with stress, tolerance for frustration, and endurance?⁷⁵

The benefits of CoC training applicable to all levels of the battlespace certainly warrant consideration for a higher allocation of money and training resources.

3. Military

In addition to the political consequences, captured personnel can adversely affect combat effectiveness and potentially compromise sensitive operations and information. During peacetime and international conflict, Joint Force personnel inherently assume the risk of becoming prospective sources of information for the enemy. Captors obtain information through the process of interrogation. For centuries, mankind extracted information human sources for use in the production of intelligence. Human Resources Intelligence (HUMINT) is the oldest and most widely practiced method of information collection conducted worldwide. Interrogation of prisoners and detainees by HUMINT personnel,

⁷⁵ Ibid., 21.

arguably one of the oldest forms of intelligence collection, provides valuable military, political, economic, and scientific and technical information that facilitates effective battlespace management in a conflict. "HUMINT can provide information on almost any topic of intelligence interest, including order of battle (OB) factors as well as scientific and technical (S&T) intelligence subjects."⁷⁶ Despite significant technological advances in imagery and signals intelligence (IMINT and SIGINT) capabilities, HUMINT remains the only collection platform that can provide insight into enemy intentions and motivations.

Exploitation of a captive can satisfy gaps in intelligence collection and analysis that IMINT, SIGINT, and measurement and signatures intelligence (MASINT) are frequently unable to fulfill due to platform limitations. "HUMINT...is necessary...because cameras cannot read minds, guess intentions, or even see through the roofs of buildings..."⁷⁷ A human "sensor" can gain access to facilities, materiel, personnel, and other valuable civilian and military assets. Additionally, captured personnel may provide equipment and documents including "planning documents, technical manuals, contingency plans, and weapons systems blueprints."⁷⁸

Interrogators must employ a variety of psychological and physical techniques to extract information from their often-unwilling subjects. Psychological manipulation proved far more effective in obtaining accurate information than physical torture:

Use of torture...is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator want to hear... Limitations on the use of methods identified as...prohibited should not be confused with psychological ploys, verbal trickery, or other nonviolent or noncoercive ruses used by the interrogator in the successful interrogation of hesitant or uncooperative sources.⁷⁹

⁷⁶ FM 34-52, *Intelligence Interrogation* (Washington, D.C.: HQ Department of the Army, 1992), 1-3.

⁷⁷ William E. Burrows, *Deep Black* (New York: Berkley Books, 1986), 111.

⁷⁸ Richelson, *U.S. Intelligence Community*, 257.

⁷⁹ FM 34-52, *Intelligence Interrogation*, 1-8.

Though every country to varying degrees employs physical manipulation, only nations with unsophisticated interrogation programs resort to strictly physical torture to elicit information during an interrogation session. To obtain reliable information in an expeditious manner, the interrogator generally employs a combination of psychological and physical manipulation.

CoC training is currently the only vehicle through which DoD personnel learn how to reduce the likelihood of capture and decrease the effectiveness of enemy exploitation. Additionally, Joint Force gain the physical and psychological tools needed to not only deal with captivity but assist in the reintegration process after repatriation.

F. CONCLUSION

The NSS and NMS mandate for an increased U.S. presence in forward locations inherently exposes more personnel to the risk of capture and exploitation. The political, economic, and military costs of captivity justify the need for a greater emphasis on CoC training. As America's Joint Force prepares for dispersed conventional and asymmetric operations with USG and multinational partners in constrained, blended/adaptive, and unconventional environments, the DoD must transform existing training programs to prepare personnel for a variety of captivity situations.

IV. PREPARING THE FORCE FOR FUTURE JOINT OPERATIONS: THE WAY AHEAD

A. OVERVIEW

As the Joint Force prepares to face a myriad of captivity situations across all levels of the battlespace, the U.S. must consider methods to enhance the survivability of all personnel in the event of capture. The fluidity of the security environment necessitates the creation and installation of a mental “captivity survival tool bag,” or set of skills that enable the captive to survive and return with honor regardless of the captor or location of captivity.⁸⁰ Initially, one must examine the moral and psychological foundations needed to increase the effectiveness of future CoC training. As the enemy evolves, the U.S. must gradually transform the current CoC training curriculum to prepare DoD assets for both conventional and asymmetric threats. With a more receptive framework in place, the core captivity skills will aid the individual in dealing with the rigors of captivity alone or with interagency and multinational partners.

B. MORAL AND PSYCHOLOGICAL FOUNDATIONS

One of the most important items in the captivity survival tool bag is a resilient moral and psychological foundation that enables the individual to effectively rebound from intense mental and physical adversity. The Joint Force team is comprised of individuals from very diverse backgrounds that can affect the ability to cope with stressful situations. While military personnel receive varying levels of indoctrination during enlisted basic and officer pre-commissioning training, the DoD does not provide such instruction to civilian and contracted members. Faith in one’s self, family, Service, country, and God is inculcated from the time one enters the U.S. Armed Forces and continues throughout the duration of one’s career. CoC training is rendered relatively useless if the individual lacks the faith, determination, hope, and conviction of purpose necessary to utilize the acquired skill sets. “Two of the gravest dangers to survival are the desire for comfort and a passive outlook. You must recognize

⁸⁰ Elizabeth and Terrence Russell, interview by author, written notes, Spokane, Washington, 15 December 2003.

that these dangers represent attitudes - attitudes that follow lines of least resistance, that overrule your effort or desire to cope with stress, that make your primary concern the immediate situation rather than the overall problem of survival.”⁸¹

The rapid and often uncontrollable transition from combatant to POW, detainee, or hostage is a mental and physical challenge unlike any experience in an individual’s career:

The experience of a captive or hostage starts with a trauma and becomes a chronic state of stress of a complex, multifaceted nature. At the moment of capture, the POW loses his former status and identity. He faces a new reality where nothing is known and his life is in constant danger.⁸²

The captive must deal with physical injuries, mistreatment which may involve torture, and deprivation of basic necessities including sleep, food, and proper hygiene items. The individual experiences a wide range of emotions including fear, humiliation, helplessness, anger, loneliness, and guilt throughout the captivity process. Additionally, with the inclusion of interagency and multinational partners, the Joint Force member must deal with interpersonal friction and cohabitation if captured with others.⁸³

Dr Edna J. Hunter, a psychologist with several published works on the subject of POWs, makes the following observations:

1. All individuals can cope with much more stress than they believe they could.
2. All human beings can be made to behave in ways they did not think possible.
3. Older and more mature individuals with firmly ingrained values and in internal locus of control cope better with capture.

⁸¹ Department of the Army Field Manual 21-76, *US Army Survival Manual* (New York: Dorset Press, 1991), 1-3.

⁸² W. N. Miller, “Captive Reactions Initially and Through the First 12-24 Hours,” Unpublished report, (San Diego: Center for POW Studies, Naval Health Research Center, 1974), 6.

⁸³ Amia Lieblich, *Seasons of Captivity: The Inner World of POWs* (New York: New York University Press, 1994), 1.

4. Commitment to a cause, such as family, country, or God, helps one to endure traumatic conditions.
5. Group support, especially from those with similar experiences, during the stress or after liberation is of utmost importance to POWs and their families.
6. Good communication with loved ones during and after captivity is key to adjustment.
7. Flexible homecoming plans and counseling are important to returning captives.
8. Preparation for capture, in forms of information and code of behavior, may help in coping.⁸⁴

The last item, reference to a code of behavior, supports the assertion by many former POWs that the CoC served as an emotional anchor from capture through repatriation. The CoC is an invaluable moral guide designed to help individual's psychologically cope with stress regardless of the captivity environment:

One of the important functions of the code is to help captives preserve their belief structures regardless of the mental and physical pressures placed on them. The code offers in succinct language an indelible standard of right and wrong based on the very values the captive has sworn to uphold. Moral responsibility does not turn on a single event or an outwardly forced act. It is a state of mind not always revealed by the captive's actions. The code seeks to preserve and strengthen free will, not constrain or weaken it."⁸⁵

While the words that compose the CoC are fairly simplistic, the intent behind and expected standard of behavior contained within each article can elude the casual reader without the proper interpretative materials and instructional training.

C. CODE OF CONDUCT TRAINING

As per the dictates of E.O. 10631, all military members receive CoC training upon entry into the Armed Forces and are expected to uphold the standards contained within each article.

⁸⁴ Edna J. Hunter, "Prisoners of War: Readjustment and Rehabilitation," *Handbook of Military Psychology*, ed. R. Gal and A.D. Mangelsdorff (New York: Wiley, 1991), 9.

⁸⁵ Richard E. Porter, "The Code of Conduct: A Guide to Moral Responsibility," 1. Available [online]: <http://www.airpower.au.af.mil/airchronicles/aureview/1983/Jan-Feb/porter.html> [February 2004].

1. Current Level A, B, and C

DoDI 1300.21, as discussed in Chapter Two, contains the basic guidance for the Services to establish Level A, B, and C Code of Conduct Training programs:

Level A: Minimum level of understanding for all members of the Armed Forces, to be imparted during entry training of all personnel.

Level B: Minimum level of understanding for Military Service members whose military jobs, specialties, or assignments entail moderate risk of capture and exploitation. As a minimum, the following categories of personnel shall receive Level B training at least once in their career: members of ground combat units, security forces for high threat targets, and anyone in the immediate vicinity of the Forward Edge of Battle Area of the Forward Line of Troops. Training shall be conducted for such Service members as soon as they assume a duty that makes them eligible.

Level C: Minimum level of understanding for Military Service members whose military jobs, specialties, or assignments entail a significant or high risk of capture and exploitation. This group of personnel should not be limited to those whose position, rank, seniority, or exposure to Top Secret or higher classified information makes them vulnerable to greater-than-average exploitation efforts by a captor. As a minimum the following categories of personnel shall receive formal Level C training at least once in their careers: combat aircrews, special operations forces (e.g., Navy special warfare combat swimmers and Special Boat Units, Army Special Forces and Rangers, Marine Corps Force Reconnaissance units, Air Force Special Tactics teams, and psychological operations units) and military attaches. Training shall be conducted for such Service members as soon as they assume a duty that makes them eligible.⁸⁶

Level A generally consists of a thirty minute to one hour briefing, given in conjunction with LOAC, in which the six articles are briefly reviewed and discussed in a wartime context. Although many of the young recruits and cadets may memorize the words, the significance and history behind the CoC is learned, if ever, later in one's career. Although DoDI 1300.21 requires periodic refresher training, very few military members can recite all six articles verbatim and discuss the significance of each article. Although the spirit of the CoC is applicable

⁸⁶ DoDI 1300.21, 4-5.

throughout the spectrum of captivity, Level A training does not distinguish between constrained, unconstrained, and blended environments. During times of extreme emotional stress, inexperienced personnel may inappropriately apply the guidance contained within the CoC to the different capture situations, resulting in severe physical or mental consequences. While the CoC contributes to strengthening an individual's moral and psychological foundation, current Level A training provides an insufficient breadth and depth of knowledge that may prove disastrous in the fluid NMS security environment.

Level B, created after 1991, consists of two separate training courses to address wartime and peacetime requirements. The wartime course consists of nine unclassified and one classified JPRA-produced videotapes, with an approximate total running time of five hours, that cover the following learning objectives: Code of Conduct; legal aspects of evasion, captivity, and escape; preparation for combat; psychological factors; survival principles; introduction to evasion; environmental considerations during evasion; primitive medical care; personnel recovery; captivity; exploitation; resistance; and escape.⁸⁷ The peacetime training contains two subordinate courses that address the challenges of peacetime governmental detention (PGD) and hostage situations.

The peacetime course concentrates on the following issues: legal aspects of peacetime governmental detention; U.S. policy governing peacetime governmental detention; psychological aspects of detention; exploitation of detainees; resisting interrogation in a peacetime governmental detention; communication in peacetime governmental detention; the recovery process; hostage avoidance; DoD guidance; survival; psychological pressures; exploitation; communications; and hostage recovery.⁸⁸ The PGD course material consists of two unclassified and two classified videotapes with a combined running time of just over two and one half hours. The hostage class consists of one classified and six unclassified videotapes with a total running time of almost

⁸⁷ Joint Personnel Recovery Agency, *Executive Agent Instruction: Requirements for Wartime Level B Training in Support of the Code of Conduct* (Virginia: HQ JPRA, 2001), 6-14.

⁸⁸ Joint Personnel Recovery Agency, *Executive Agent Instruction: Requirements for Peacetime Level B Training in Support of the Code of Conduct* (Virginia: HQ JPRA, 2001), 5-9.

three hours. DoD members that do not have the appropriate security clearance are not required to view the classified videotapes to complete the Level B training.

Level C wartime and peacetime training, conducted only at a Service SERE school or JPRA-approved facility, encompasses the Level B training material and provides the student with hands-on training over a roughly two week period. The Level C wartime training encompasses all of the Level B wartime material with additional information in the following sections: preparation for combat, survival principles, personnel recovery, and resistance. The student must also participate in operational training and resistance training laboratory exercises.⁸⁹ The Level C peacetime training includes role-play and resistance training laboratory scenarios and classroom instruction on all of the Level B peacetime material with additional information in the following sections: legal aspects of peacetime governmental detention, and hostage avoidance.⁹⁰

2. Relevance: Perceptions of American Military Personnel

Although the CoC is required training for all military personnel and serves as the foundation for all DoD Level A, B, and C SERE programs, one must question whether the Code, last revised sixteen years ago, is still relevant in its present form to the myriad of threats and captivity environments.⁹¹

Changing world conditions could well require future periodic reviews of the Code. United States and International Law may change significantly potential adversaries may introduce radically new methods of captor behavior, and new concepts of neutral power detention may evolve. Each of these developments could require changes in the Code.⁹²

⁸⁹ Joint Personnel Recovery Agency, *Executive Agent Instruction: Requirements for Wartime Level C Training in Support of the Code of Conduct* (Virginia: HQ JPRA, 2001), 5-17.

⁹⁰ Joint Personnel Recovery Agency, *Executive Agent Instruction: Requirements for Peacetime Level C Training in Support of the Code of Conduct* (Virginia: HQ JPRA, 2001), 5-10.

⁹¹ Mike Dozier, interview by author, written notes, Pentagon, Washington, D.C., 24 March 2004.

⁹² U.S. Department of Defense, *Report of Defense Review Committee for the Code of Conduct* (Washington, D.C.: Office of the Secretary of Defense - Manpower, Reserve Affairs, and Logistics), 1976), 28.

The young officers and enlisted personnel of today will serve in the key leadership positions of the DoD envisioned in the NMS construct. As such, it is useful to examine the opinions and perceptions of the individuals who will ultimately be responsible for the transformation of Service capabilities from now through the next twenty years. In an effort to obtain a broad perspective of the prevailing thoughts on the CoC and its applicability to the asymmetric battlespace, 165 officer and enlisted students at the Naval Postgraduate School (NPS) and the Defense Language Institute (DLI) in Monterey, California participated in an anonymous written survey. Additionally, twenty international officers studying at the Naval Postgraduate School, future multinational partners of the U.S., provided valuable insights on Conduct After Capture (CAC) training which is discussed in Section D of Chapter Four.

“The Code of Conduct: Is it relevant in today’s asymmetric threat environment?” Survey (Appendix A) did not require participants to provide specific identifiers to uphold the spirit of academic freedom and encourage the respondents to freely express opinions without fear of retribution. Based solely on personal opinions and perceptions, the students provided basic experience data, evaluated their comprehension of the CoC based on the existing Service training programs, assessed the applicability of the CoC to different capture situations, commented on the need for a civilian CoC, and provided additional comments and recommendations. The CoC Survey results contain the opinions of a small sample drawn from a very diverse population of military NPS and DLI students and does not reflect the official policies or opinions of the individual Services as a whole. The survey also does not account for gender, religious preference, or ethnic or cultural backgrounds. Due to the random selection of participants and method of distribution, the respondents did not receive formal instruction or guidance. Thus, the interpretation of each question could vary among respondents. In a few cases, a respondent did not select and answer or selected more than one response, as indicated by an (*). NPS and DLI randomly received the survey from the end of April through June 2004, with the ultimate goal of obtaining roughly twenty respondents from both the officer and enlisted

corps of each Service. Table 1 provides an abbreviated version of the U.S. participant demographics contained in Appendix A.

	USAF	USA	USN	USMC
Rank				
O1 to O3	6	8	20	12
O4 to O6	15	12	1	9
E1 to E4	3	5	7	19
E5 to E9	18	16	13	1
Yrs in Service				
1 to 5	5	6	14	20
6 to 10	11	11	8	11
11 to 15	18	14	8	5
16 to 20	6	5	11	5
20+	2	5	0	0

Table 1. American Military Demographics

Although Executive Order 10631 states that all Service personnel are expected to live up to the standards embodied in the CoC, DoD Instruction 1300.21 only stipulates that “...refresher or continuation training should be conducted throughout the Service member’s career.”⁹³ Despite the high deployment rate and increased exposure to captivity threats, only 53% of respondents indicated that they received some form of yearly refresher training, which in reality is a slightly lower percentage as several respondents indicated that they had not consistently received yearly training throughout the duration of their career (Table 2). One Army officer commented that, “...The code of conduct is relevant, but not well taught.”⁹⁴

Perhaps due in part to the sporadic nature of the training, 29% indicated that they could not recite a single article of the Code verbatim while 47% could recite only one or two articles. Although unable to recite most of the Code, 39%

⁹³ DoDI 1300.21, 5.

⁹⁴ Survey respondent USA-O-18.

understood the basic principles and guidelines. The yearly DoD requirement for LOAC refresher training contributed significantly to legal understand of the CoC, as 85% of the respondents understood the relationship between the CoC, UCMJ, and Geneva Conventions.

Service/Officer/Enlisted	USAF O	USAF E	USA O	USA E	USN O	USN E	USM C O	USMC E	Total
Total Number Participants	21	21	20	21	21	20	21	20	165
First receive CoC tng									
Acddy/ROTC/OTS/OCS/OBC	16	0	16	0	15	0	10	0	57
Basic Tng	5	20	3	21	5	20	9	20	103
First tech tng school	0	1	0	0	1	0	0	0	2
Other	0	0	1	0	0	0	2	0	3
Yearly refresher tng									
Yes	15	16	10	13	9	7	7	11	88
No	6	5	10	8	12	13	14	9	77
Recite articles verbatim									
All	1	1	3	3*	0	0	0	1	9
Most	7	4	2	5	3	0	5	3	29
Some	10	11	11	5	9	12	13	7	78
None	3	5	4	7	9	8	3	9	48
Basic ideas/guidance									
All	6	6	8	8	5	1	10	8	52
Most	14	7	6	5	9	8	7	8	64
Some	1	8	4	5	7	9	3	3	40
None	0	0	2	2*	0	2	1	1	8
CoC, the UCMJ, GC									
Yes	18	21	17	16	19	17	15	18	141
No	3	0	3	5	2	3	5*	2	23
*Respondant did not answer									

Table 2. American Military Code of Conduct Training Statistics

Many of the DoD's future leaders, ranging from 75% to 81%, believed that for the most part the CoC is applicable to peacetime government detentions,

political prisoner/hostage situations, and terrorist hostage captivity environments (Table 3). While 94% of respondents asserted that the CoC is still relevant, the participant pool was equally divided over the proposal to reword the six articles. “Increasing the complexity of the code to account for various detention possibilities could undermine its strengths (simplicity and flexibility). I think that emphasis of other detention possibilities during training allows the current code, as an expression of ideals, to remain applicable and useful/valuable.”⁹⁵ Conversely, one respondent indicated that “...Based on the new, dynamic threats faced by all service members today, I feel the CoC should be revised/updated to reflect current situations.”⁹⁶ Many participants suggested minor wording changes, including the removal of the term “prisoner of war.”

Service/Officer/Enlisted	USAF O	USAF E	USA O	USA E	USN O	USN E	USMC O	USMC E	Total
Total Number Participants	21	21	20	21	21	20	21	20	165
Peacetime gov't detention									
Yes	16	14	16	19	19	17	18	15*	134
No	5	7	4	2	2	3	3	4	30
Political prisoner/hostage									
Yes	15	13	15	19	18	17	18	18	133
No	6	8	5	2	3	3	3	2	32
Terrorist hostage									
Yes	14	12	14	18*	16	15	19	16	124
No	7	9	6	2	5	5	2	4	40
*Respondant did not answer									

Table 3. Applicability of Code of Conduct to Captivity Spectrum

When asked if the CoC should be a moral guide or a legally binding code, 83% agreed with the 1976 Defense Review Committee that it should remain a moral guide (Table 4). Due to the increased presence of civilians in the combat

⁹⁵ Survey respondent USAF-O-3.

⁹⁶ Survey respondent USA-O-13.

zone, 81% of the participants believed that the USG should create a CoC, and the associated training, for its civilian employees. While DoD civilians and contractors are protected by the Geneva Conventions and held liable to some of the articles of the UCMJ, they are not subject to the standards contained within the CoC. Many military personnel now work directly for a civilian supervisor, or have civilian co-workers, who never receive captivity training. The dynamics and potential dangers of military and civilian co-captivity will be further explored in Section D of Chapter IV.

Service/Officer/Enlisted	USAF O	USAF E	USA O	USA E	USN O	USN E	USMC O	USMC E	Total
Total Number Participants	21	21	20	21	21	20	21	20	165
Moral guide/legally binding									
Moral Guide	21	17	15*	16	17	15	21	15**	137
Code of Law	0	4	4	5	4	5	0	6**	28
CoC for civilians									
Yes	12	21	17	19	14	20	14	16	133
No	9	0	3	2	7	0	6*	4	31
Is CoC still relevant									
Yes	20	20	19	20	19*	19	19	19	155
No	1	1	1	1	1	1	2	1	9
Reworded the CoC									
Yes	9	14*	15	7*	7	11	5	13	81
No	12	6	5	13	14	9	16	7	82
*Respondant did not answer/**Respondant selected both answers									

Table 4. Considerations for the National Military Security Environment

a. Air Force Officer and Enlisted

Overall, the Air Force respondents demonstrated a working knowledge of the CoC and professed the highest attendance at yearly refresher training courses. USAF participants indicated that the CoC should remain a

moral guide and, while still relevant to the future security environment, required updated wording to address the asymmetric threats. One officer recommended that a new CoC "...should change 'prisoner of war' to a more applicable phrase like 'detained by hostile forces,'"97 while one of the enlisted personnel requested the removal of all references to "God."⁹⁸ The majority also believed that the DoD and USG should establish a CoC for civilian and contracted personnel.

b. Army Officer and Enlisted

The Army personnel also demonstrated a working knowledge of the CoC but did not score as high in attendance at annual refresher training. One officer commented that "the Code is obviously more rigid than 'survive with honor' mentality taught in SERE C. Instruction must be similar, otherwise young soldiers will give, name, rank, serial – and die of torture."⁹⁹ Although relevant in the NMS security environment, several soldiers recommended wording changes to several of the articles:

Code I: The phrase 'our way of life' should be replaced or simply deleted. America is a mosaic of cultures, so there is no 'our' way of life. Code VI: remove phrase 'I will trust in my God' – not all Americans are theists. Code VI: define the principles that freed America. We were not all free at the same time.¹⁰⁰

One enlisted expressed "I believe that the underlying principles of the CoC can be applied in all the above situations but those who take the words literally may find it hard to apply; for today's environment it might be useful to update the wording (which assumes actual combat operations) or to modify training to address a wider variety of situations. Unfortunately, this type of annual training tends to be canned or designed to 'check the block.'"¹⁰¹

⁹⁷ Survey Respondent USAF-O-21.

⁹⁸ Survey Respondent USAF-E-7.

⁹⁹ Survey Respondent USA-O-20.

¹⁰⁰ Survey Respondent USA-E-9.

¹⁰¹ Survey Respondent USA-E-17.

c. *Navy Officer and Enlisted*

The Navy participants demonstrated minimal proficiency in CoC training and maintained that lowest attendance at annual refresher training. Although several enlisted members supported changing the CoC to a legally binding code, the majority of participants preferred to maintain the moral guide status. Overall, the respondents believed that the CoC is still relevant in the changing threat environment and favored keeping the CoC articles in the present form. “I do not believe that making these precepts even more codified or specific situation oriented would be beneficial. Any reasonable sailor should be able to apply these general codes to any unique situation that arises.”¹⁰²

d. *Marine Corps Officer and Enlisted*

The Marine Corps students demonstrated a working knowledge of the CoC and its basic concepts but indicated a lack of yearly refresher training. Overall, the USMC participants favored the status quo, keeping the code as a moral guide and maintaining the articles with the present verbiage. One Marine officer did assert, to the contrary, that “POW is a legal term, so the CoC may need to be expanded for other categories.”¹⁰³

3. *Core Captivity Curriculum and Environmental Training*

Although the DoD may need to review and consider revising the wording of the articles, the overarching spirit and intent of the CoC remains applicable to threats in the NMS security environment. The current CoC regulatory guidance and training methodology, however, is inappropriate for the complexity of the battlespace and will not adequately prepare the Joint Force to face future conventional and asymmetric challenges. In a captivity situation, the isolated person does not have the time, and frequently lacks the situational knowledge, to determine if POW, detainee, or hostage guidance applies. In many cases, the captive may be an individual deemed “low-risk of capture” and therefore did not receive Level B or C training. The captured member must rely on thirty minutes

¹⁰² Survey Respondent USN-E-16.

¹⁰³ Survey Respondent USMC-O-1.

to one hour of Level A training received years prior during basic or pre-commissioning training that lies in the vast recesses of the brain.

In a war for the minds of men, the enemy's methods can be successfully combated by military training and civilian education. In battle and in captivity the fighting American is no better than his training and education... it must be presented with understanding, skill, and devotion sufficient to implant a conviction in the heart, conscience, and mind of the serviceman that full and loyal support of the code is to the best interests of his country, his comrades, and himself.¹⁰⁴

All Joint Force personnel, regardless of rank, position, or duty location, need a captivity survival tool kit that contains straightforward guidance and training that addresses the elements common to all capture situations.¹⁰⁵ JPRA's proposed core captivity curriculum training (CCCT) provides a viable means to enhance the survivability of an individual throughout the capture, transport, detention, and release phases. All DoD military and civilian personnel must complete classroom or computer-based training (CbT) instruction for CCCT Level B upon entry into the Armed Forces and receive yearly refresher training. The CCCT Level C course, based on the existing SERE school training philosophy of academics, stress inoculation, and stress resolution, is conducted for a select group at the Service SERE schools or JPRA-approved facilities.¹⁰⁶ CCCT Level C consists of CCCT Level B with additional material and hands-on environmental training scenarios.

The CCCT program contains ten modules that range from strictly classroom instruction to academic role-play scenarios. Initially, students study the spectrum of captivity and discuss the principles associated with the captivity resistance postures. Once the student understands the basic elements of environment, potential threats, and response, he or she learns and practices how to use situational awareness to select the most appropriate SERE response based on the nature of the pre-capture or capture situation. The student then

¹⁰⁴ Report by the Secretary of Defense, *POW... The Fight*, 15.

¹⁰⁵ Russell and Russell, 15 December 2003.

¹⁰⁶ Percival, 16 December 2003.

explores the psychological aspects of captivity, including the origins of stress, coping mechanisms, and the ability to recover readily from adversity. As most Joint Force personnel will operate in small groups or in conjunction with USG and multinational partners, the students must understand the relationship of leadership and followership and the principles of how to organize a group of captives to effectively resist captor exploitation. Subsequently, the students ascertain how to use covert communication techniques and understand basic facts and principles associated with maintaining health in captivity. Through academic and role-play scenarios, the students enter the world of exploitation, including interrogation, and learn how to develop an effective resistance posture. Finally, the course concludes with the different captivity resolution methodologies and repatriation efforts.¹⁰⁷

The skills acquired during the CCCT program apply to all captivity situations regardless of whom the captor is or where the capture occurs. CCCT uses a common sense approach to provide a flexible set of captivity survival tools and enhance the survivability of the DoD's most valuable warfighting asset.

4. Instructor and Training Resources

As with all DoD training programs, the finite number of instructors, training facilities, and associated instructional materials are always in high demand. To increase the capacity and effectiveness of CCCT Level B programs, JPRA and the Services can explore the following options:

- **CbT Capability:** As is the current practice for many LOAC and antiterrorism/force protection training programs, military and civilian personnel could access an interactive, online program through the unclassified JPRA website. A similar program would reside on the classified DoD Internet system for the collateral-level materials. CD-ROMs provide an alternative for deployed sites that do not have ready access to the Internet.
- **CCCT Cadre and Mobile Training Teams (MTTs):** Through the existing Joint Instructor Training Center (JITC) or MTTs, JPRA could create an extensive collection of military and civilian CCCT Level B trainers. Using the "train-the-trainer" system, a multi-Service group of CCCT instructor candidates undergo both the

¹⁰⁷ Strub and Kelly, 25 March 2004.

Level B course and an instructor training course. Upon completion, the individual receives a “special duty identifier” that will enable JPRA and the Services to track the graduate for the duration of his or her career. The new instructor will teach a pre-determined number of Level B classes in addition to his or her normally assigned duties, in-garrison or deployed, and then start training new instructors on-site. All CCCT trainers would periodically return to the JPRA JITC for refresher training and to potentially provide fresh role players for Level C training courses. If JITC training space is limited, the Level B Instructor course could overcome the physical constraints through a satellite-broadcasted program.

The sensitive nature and unique instructional methodology used in CCCT Level C restricts the dissemination capability. The most effective and efficient training solution is to create a Joint CCCT Facility, preferably in conjunction with a Personnel Recovery Battlelab. Intensive inter-Service rivalries, however, hampered similar initiatives in the past. As the Joint Force increases interaction and collocation with interagency and multinational partners throughout the battlespace, the DoD should consider the creation of a specialized CCCT sub-course for non-DoD personnel to enhance synergy and communication.

5. Training Tracking Mechanism

Due to the vast differences in how the Services track the completion of training courses, a centralized database is necessary to ensure accuracy and compliance with the yearly requirement. A CbT system can automatically generate and track training completion reports for storage in a centralized JPRA database.

D. INTERAGENCY AND MULTINATIONAL CAPTIVITY TRAINING

1. Conduct after Capture: Codes and Training

Currently, very few interagency organizations maintain a conduct after capture training program to prepare employees for captivity under an asymmetric threat. The CIA, DEA, and DOS include some elements similar to SERE in their respective training programs but lack a comprehensive program that addresses the range of threats. Overall, the USG lacks a cohesive effort and fails to utilize the available DoD materials.¹⁰⁸

¹⁰⁸ Randall W. Spivy interview by author, telephone, Spokane, Washington, 7 June 2004.

Conversely, many of the multinational partners that actively deploy with American forces have well-established CAC programs. The United Kingdom, Germany, Sweden, Canada, Australia, New Zealand, Israel, Turkey, Bulgaria, Pakistan, Uzbekistan, the Czech Republic, Poland, Indonesia, and Jordan are only a few of the many nations that attempt to prepare for captivity. The underlying philosophy and specific standards of behavior vary from country to country but all have the basic goal of helping the individual to survive in captivity and return with honor. A few countries, in the same manner as the U.S., have a code of conduct. "The code of conduct for CF [Canadian Forces] members has been developed to conserve our personnel resources, to deny military intelligence to the enemy, to ensure interoperability with our allies and to continue offensive action against the enemy."¹⁰⁹ Canada's Code of Conduct After Capture (CCAC) consists of a short preamble and five simple rules:

The Preamble to the CCAC

- The aim of the CCAC is for you to survive with honour.
- Do not surrender to the enemy while you still have the means to achieve your mission.
- If captured, remember you are still a member of the CF and remain subject to its rules and obligations.

The CCAC, if captured, remember your PRIDE

- Principles of leadership,
- Resist exploitation by all means available,
- Information to be given,
- Dignity and self-respect must be maintained, and
- Escape.¹¹⁰

¹⁰⁹ Joint Doctrine Manual J7 DLLS 2 2000-09-28, *The Code of Conduct After Capture for the Canadian Forces* (28 September 2000), 4-1. Available [online]: <http://www.forces.gc.ca> [July 2004].

¹¹⁰ Ibid., 4-1.

Canada's CCAC training program is modeled after America's current Level A, B, and C CoC programs. While the U.S. allows limited, carefully controlled application of physical duress in advanced SERE training, countries like Israel allow the instructors to harshly punish and humiliate the students. One of the Israeli Air Force officers described his training as "...during the aviation course we had to undergo drills preparing us in the event that we would be captured... We were blindfolded for three days, humiliated, and not allowed to use the toilet."¹¹¹

In an effort to ascertain the opinions of future multinational partner regarding the effectiveness of CCAC training, twenty international officers attending the Naval Postgraduate School participated in a written survey.

2. Perceptions of International Military Officers

"The Conduct After Capture Training: Is it relevant in today's asymmetric threat environment?" Survey (Appendix A) utilized the same construction and distribution methodology as the American "Code of Conduct" survey and experienced the same problem areas. Based solely on personal opinions and perceptions, students from Greece, Uzbekistan, Mongolia, Poland, Bulgaria, Turkey, the Czech Republic, Hungary, Indonesia, Pakistan, and Jordan provided basic experience data, assessed the applicability of their country's CCAC to different capture situations, commented on the need for a civilian CoC, and provided additional comments and recommendations. The overall regional distribution included fifteen Europeans, three from the Middle East, and two from Asia.

Due to the random selection of participants and method of distribution, the respondents did not receive formal instruction or guidance. Thus, the interpretation of each question could vary among respondents. The responses reflect the opinions of the individual and in no way represent the official policies of the participant's government or Service. The comments included in this section contain the sentence structure, grammar, and spelling errors as provided

¹¹¹ Lieblich, *Seasons*, 18.

in the respondent's survey. Table 5 provides an abbreviated version of the multinational participant demographics contained in Appendix A.

	AF	Army	Navy
Rank			
O1 to O3	2	6	2
O4 to O6	3	5	2
Yrs in Service			
1 to 5	0	4	1
6 to 10	2	2	0
11 to 15	0	0	1
16 to 20	2	1	0
20+	1	4	2

Table 5. International Student Demographics

The CAC survey confirmed that not all countries with an active military force have a CCAC or the associated training program (Table 6). Only seven of the students indicated that they received yearly refresher training. Of the countries that have a viable program, a few do not offer the training to all branches of Service. Several students expressed a desire to attend CAC training and regretted that their Service did not have a program. One of the Pakistani respondents indicated that, "I think more hostile/maltreatment preparation is a must..."¹¹²

¹¹² Survey respondent I-O-18.

	Europe	Asia	Middle East
Existing CCAC			
Yes	10	1	3
No	2	1	0
Not sure	3	0	0
First receive CoC tng			
Commissioning Source	0	1	1
First technical training school	7	0	2
First unit of assignment	1	0	0
Other	2	0	0
Yearly refresher tng			
Yes	4	0	3
No	11	2	0

Table 6. International Conduct After Capture Training Statistics

Like the American participants, the international students overwhelmingly indicated that civilians working in conjunction with military forces should have a CCAC (Table 7). One respondent from the Czech Republic disagreed with the issuance of a code but not the implementation of a training program. “I believe civilians should receive some sort of training/instructions, but I do not think they necessarily need a code...”¹¹³

	Europe	Asia	Middle East
Moral guide or legally binding code			
Moral Guide	4	0	0
Code of Law	3	0	3
Both	1	0	0
Not sure	7	2	0
CoC for civilians			
Yes	12	2	3
No	2	0	0
Not sure	1	0	0

Table 7. Considerations for the National Military Security Environment

¹¹³ Survey respondent I-O-15.

Overall, the international respondents did not demonstrate a strong degree of confidence that their CAC codes or training applied to all of the capture situations (Table 8).

	Europe	Asia	Middle East
Hostile peacetime gov't detention			
Yes	9	1	2
No	1	1	0
Not sure	5	0	1
Political prisoner/hostage			
Yes	7	0	1
No	4	2	2
Not sure	4	0	0
Terrorist hostage			
Yes	6	1	2
No	5	1	1
Not sure	4	0	0

Table 8. Applicability of Code of Conduct After Capture to Captivity Spectrum

As with their American counterparts, many of the international participants acknowledged the need and desire for CAC training in preparation for an asymmetric security environment. A Pakistani officer stated, “I personally feel that under the prevailing and perceived envisaged future battle field environment and involvement of forces in international/joint operations (UN peace-making and keeping, etc.) CAC training is a must and must be initiated right from the outset at the basic training institutions.”¹¹⁴

With the ever increasing presence of multinational assets in forward deployed operations, the U.S. Joint Force must consider the impact of capture situations with international military forces that have limited or philosophically different CAC training. In addition to the inter-Service disparities, American military captives will encounter the challenges of establishing a multinational chain of command, reconciling different resistance posture thresholds, and

¹¹⁴ Survey respondent I-O-18.

dealing with the unique aspects of cross cultural communication and interpersonal relationships. The inclusion of interagency civilians further complicates and exacerbates the challenges of captivity.

3. Reconciling the Disparities between American Military and Interagency Civilian Personnel

Civilians provide a level of expertise and continuity that is essential to all military operations. Historically, U.S. civilians supporting DoD personnel in high threat areas rarely received the pre-deployment contingency training deemed necessary to enhance survival of the military forces. To reaffirm the DoD's commitment to protecting civilian employees and contractor and enhance interoperability with military counterparts, OSD/DPMO produced and published DoDI 1300.23 *Isolated Personnel Training for DoD Civilians and Contractors*:

Preserving the lives and well-being of U.S. military, DoD civilian employees, and DoD contractors placed in danger of being isolated, beleaguered, detained, captured or having to evade while participating in U.S.-sponsored activities or missions is one of the highest priorities of the Department of Defense. The Department of Defense has a moral obligation to protect its personnel, prevent exploitation of its personnel by adversaries, and reduce the potential for captured personnel being used as leverage against the United States.¹¹⁵

DoDI 1300.23 stipulates that all DoD civilian employees and contractors must complete a modified version of CoC Level A, B, or C training prior to entering the theater of operations. Levels A and B include computer-based academics that discuss the elements of POW, detainee, and hostage situations. Level C is restricted to the Service SERE schools or JPRA-approved facilities. Unfortunately, as experienced by the military personnel, only individuals deemed medium – to – high risk of capture receive the advanced training. Additionally, the issue of chain of command continues to present problems in military-civilian co-capture situations. Since civilians are not required to abide by the CoC, military personnel occasionally experience resistance when attempting to establish a command structure. Overall, DoDI 1300.23 is a positive effort to strengthen the cohesiveness and integrity of the Joint Force team.

¹¹⁵ DoDI 1300.23, 2.

Unfortunately, the U.S. government does not have a similar protective system in place for the interagency organizations. The 1979 hostage crisis in Iran reveals the myriad of challenges created when untrained USG civilian employees and DoD military personnel attempt to co-exist in a captivity situation. Military personnel assigned to a U.S. embassy fall under the command of the highest ranking DoS civilian, the Chief of Mission. During the 1979 crisis, the chain of command fell apart as the civilian hostages, comprised primarily of DoS and CIA employees, refused to participate in a command structure with the multi-Service military officer and enlisted personnel. The DoD members received different levels of CoC training and had little knowledge or experience dealing with hostage situations. The civilians, with the possible exception of the CIA agent, lacked the resistance and coping mechanisms needed to mentally and physically handle the stresses of captivity. Collectively, the hostages failed to form a cohesive team and did not uphold the tenets of the CoC.¹¹⁶

In the hopes of overcoming the challenges experienced by the U.S. Embassy hostage, the USG is drafting a National Security Presidential Directive (NSPD) to address the recovery of isolated or missing U.S. government personnel overseas:

United States Government personnel engaged in U.S. Government-sponsored activities outside of the United States are at risk of isolation or separation from friendly control. This could lead to their possible capture or detention by individuals, groups, or governments hostile to our interests that are willing to exploit our personnel to further their own causes. We must assure U.S. Government personnel and contractors serving their country abroad that if they become isolated, we will not abandon them. This promise is a fundamental tenet of our national character and a moral imperative. The U.S. Government must ensure that we deliberately plan, train, and equip ourselves in such a way as to set the stage for successful personnel recovery operations and returning our personnel to safety. This directive establishes roles and responsibilities within the Government for personnel recovery efforts.¹¹⁷

¹¹⁶ Russell and Russell, 15 December 2003.

¹¹⁷ Draft NSPD, 1.

The draft NSPD is a monumental effort to mandate the creation of recovery procedures and captivity training programs for all interagency organizations. The initiative contains a proposed standard of behavior for isolated civilian personnel:

If despite their best efforts, personnel find themselves in potentially isolating situations, they should do everything possible to return themselves to friendly control. By adhering to the following guidelines, Americans will protect themselves and others while isolated and enhance our efforts to recover them:

As Americans, they should assist other Americans with whom they are isolated to the best of their abilities and do nothing that may harm a fellow American.

U.S. personnel should resist attempts by their captors to exploit them to the utmost of their ability, and at all times protect classified information. At no time should they accept special treatment from a detaining element, unless such treatment comes with no conditions and is given equally to all Americans in the same situation. They should be aware that their captors will attempt to use them to shape world opinion and that their actions while in captivity will impact our ability to recover them safely.

Americans should not make written, oral, or videotaped statements harmful to the U.S.; however, after carefully assessing their risk, Americans should make generic written, oral, or videotaped statements that could provide information regarding their status (i.e., proof of life).

Americans isolated from friendly control should carefully plan their actions and realize that their decisions can impact the Government's ability to affect their recovery or release profoundly.¹¹⁸

Presidential approval of the draft NSPD is a necessary step toward improving the integration and synergy of the Joint Force with interagency and multinational partners in the WOT and other global conflicts.

E. CONCLUSION

The evolving nature of the threat envisioned within the NMS security environment drives the need for a more flexible set of captivity survival skills. Although the spirit and intent of the CoC remain valid, the wording of the articles

¹¹⁸ Draft NSPD, 3.

and the associated training programs must change to reflect the needs of the warfighter. Level A CoC training is ineffective and inadequate due to variations in Service training curricula and inconsistent reinforcement. CoC Levels B and C provide three distinctly different sets of guidance for captivity situations that can overlap and confuse the isolated person. The core captivity curriculum training program offers a viable option to enhance the survivability of the Joint Force, interagency civilians, and multinational partners. In addition to training initiatives, the USG and multinational partners must resolve conduct after capture policy and guidance deficiencies to establish a common framework with the Joint Force for future joint operations throughout the battlespace.

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V. CONCLUSIONS AND RECOMMENDATIONS

A. OVERVIEW

The *National Military Strategy of the United States of America 2004* security environment generates the requirement for significant changes to the current DoD Level A, B, and C Code of Conduct training programs. The DoD must transform all aspects of the warfighting capability to effectively and efficiently counter any challenge across the broad spectrum of enemy capabilities. The existing CoC programs and SERE skill sets lack the flexibility to enable the isolated person to rapidly adapt to changes in the future captivity environment. To meet the objectives stipulated in the NMS, in support of the National Security Strategy, the DoD must develop a CoC training program that compensates for the inability of the international legal structure to protect captives in the new security environment.

B. CONCLUSIONS

To enhance the survivability of DoD personnel in captivity situations, the transformation process should consider the existing policy, attitude, and training challenges.

1. Existing International Law, Domestic Directives, and Service Regulations Inadequate

The existing body of International law, domestic directive, and Service-level regulations are not suited to address the challenges inherent to asymmetric operations. Although still appropriate for conventional POWs, the Geneva Conventions and additional Protocols do not sufficiently address the needs of detainees and hostages. Similarly, the UCMJ and CoC use language developed for traditional Cold War situations. The spirit and intent of the CoC remains valid but the moral guidance contained within the articles may be misconstrued and misapplied in different capture scenarios. Service CoC regulations and training programs, while extremely adept at dealing with captivity in the contemporary environment, lack the adaptability needed by the expeditionary Joint Force. Additionally, Joint Force member use of the SERE skill set is hampered in DoD-

interagency capture situations due to a lack of regulatory guidance or standards of behavior for USG civilians.

2. National Military Strategy Mindset

The NMS and NSS inherently require the DoD and USG to develop a new perspective on combating adversaries around the world. America must gain a greater understanding of the nature of the threat to cultivate the capabilities need to achieve full spectrum dominance. To attain the necessary level of understanding, the DoD and USG must overcome internal and interagency cultural differences and parochial attitudes to facilitate communication and collaboration. With the increased presence overseas, permanent or temporary, Joint Force personnel can anticipate an increased risk of capture with interagency or multinational partners. The DoD and USG, with the support of the Executive Branch, must create an environment conducive to the growth of the NMS mindset.

3. CoC Training Must Transform

The principles and moral guidance contained within the CoC remains relevant in the future security environment. The current SERE training that supports the CoC, however, does not facilitate a smooth transition between constrained, blended/adaptive, and unconstrained captivity environments. Level A, the most widely received CoC training, does not provide the depth and breadth needed to assist the isolated person in an asymmetric capture situation. Levels B and C provide separate guidance for wartime POWs and peacetime detainees and hostages. Isolated persons need one set of flexible, adaptable captivity skills that apply to all environments. Additionally, the established set of captivity skills should be available to USG civilians and select multinational partners.

C. RECOMMENDATIONS

The following policy, mindset, training, and supporting recommendation are offered to facility transformation and enhance survivability of vulnerable Joint Force, interagency and multinational assets.

1. Policy

- Reevaluate rights, protections, and restrictions of Geneva Conventions and Protocols and consider amendments or supplements to clarify existing articles
- Revise articles of UCMJ to reflect dynamics of new security environment
- Conduct review of CoC and consider revision of existing articles
- Support adoption of Draft National Security Presidential Directive “Recovery of Isolated or Missing U.S. Government Personnel Abroad”
- Encourage USG to create standard of behavior and associated training program for civilian employees
- Enforce standardization of and compliance with all Service-level CoC training regulations

2. Mindset

- Inculcate NMS mindset
- Encourage and develop Joint Force, interagency, and multinational partner interaction and communication through expanded training opportunities

3. Training

- Eliminate CoC Level A training program
- Establish Level B as the baseline required for all DoD personnel upon entry into the Armed Force
- Adopt Core Captivity Curriculum Training program
- Increased training capacity through expansion of available instructor resources and computer-based training
- Consider creation of a Joint CCCT training facility
- Create CCCT for interagency and multinational partners

4. Supporting Changes

- Discontinue use of Social Security Numbers and create randomly generated Military Identification Number
- Create a Joint Personnel Recovery Battlelab

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APPENDIX A. AMERICAN AND INTERNATIONAL STUDENT DEMOGRAPHICS AND PROTOCOL

ID Number	Rank/Grade	Yrs in Service	Level of SERE	First CoC
USAF-O-1	Major	18	A	Basic
USAF-O-2	Major	12.5	B-Fairchild	A/R/O
USAF-O-3	Major	13	A	A/R/O
USAF-O-4	2Lt	14	A	Basic
USAF-O-5	1Lt	3	none	A/R/O
USAF-O-6	1Lt	3	none	ROTC
USAF-O-7	Major	13	A	Academy
USAF-O-8	Major	13	none	ROTC
USAF-O-9	Major	14	A	Academy
USAF-O-10	Major	14	B-AB Def Crs	ROTC
USAF-O-11	Major	20	A	Basic
USAF-O-12	Major	14	C-Fairchild,theater, USAFA	Academy
USAF-O-13	Major	12	A-only field training	ROTC
USAF-O-14	Major	18	A-USAFA	Academy
USAF-O-15	Captain	7.5	B-Lakenheath/SERE instructor	OTS
USAF-O-16	Captain	6	A	Basic
USAF-O-17	Captain	20+	A-SQ	Basic
USAF-O-18	Major	12	A	A/R/O
USAF-O-19	Major	13	A	Academy
USAF-O-20	Major	14	B-Fairchild	ROTC
USAF-O-21	Major	12	A	ROTC
USAF-E-1	SSgt/E5	9	A	Basic
USAF-E-2	SSgt/E5	11	A	Basic
USAF-E-3	TSgt/E6	15	A	Basic
USAF-E-4	TSgt/E6	10	A	Basic
USAF-E-5	SSgt/E5	8	A	Basic
USAF-E-6	TSgt/E6	19+	B-Fairchild	Basic
USAF-E-7	Amn/E2	1+	A	Basic
USAF-E-8	SSgt/E5	6	A	Basic
USAF-E-9	SSgt/E5	9.5	A	Basic
USAF-E-10	SSgt/E5	12	A	Basic
USAF-E-11	SrA/E4	4	none	ROTC/Basic
USAF-E-12	SSgt/E5	11	A	Basic
USAF-E-13	TSgt/E6	20	B-Combat Com/Mob Tech	Basic
USAF-E-14	TSgt/E6	13	A	Basic
USAF-E-15	SrA/E4	4	B/SF Tech School	Basic

USAF-E-16	SSgt/E5	6	none	Basic
USAF-E-17	SSgt/E5	5+	A	Basic
USAF-E-18	SSgt/E5	7	C/SV80,SV83	Basic
USAF-E-19	SSgt/E5	7	C/SV80,SV83	Basic
USAF-E-20	SMSgt/E8	22.5	none	Basic
USAF-E-21	MSgt/E7	20	A	Basic

USA-O-1	Major	15	A	ROTC
USA-O-2	LTC	21	none	ROTC
USA-O-3	Colonel	24	C	ROTC
USA-O-4	Major	12	A	ROTC
USA-O-5	Captain	10	C	Basic
USA-O-6	Major	12	B-ILRPS	Academy
USA-O-7	Captain	11	A	Basic
USA-O-8	Captain	10	A	A/R/O
USA-O-9	Major	14	B-JFKSWS	ROTC
USA-O-10	Major	13	A	Basic
USA-O-11	Major	14	A	Academy
USA-O-12	Captain	10	B-Ft Rucker	Academy
USA-O-13	Major	15	A	Basic
USA-O-14	Major	14	C-Ft Bragg	A/R/O
USA-O-15	Major	10	B-ILRPS, INTAC	Academy
USA-O-16	Captain	11	A	A/R/O
USA-O-17	Captain	8.5	A-none	ROTC
USA-O-18	Captain	10	C-Spec Ops	ROTC
USA-O-19	Captain	10	B-SWC	ROTC
USA-O-20	Major	16	C-Ft Bragg	OBC
USA-E-1	SFC/E7	17.5	none	Basic
USA-E-2	SSG/E6	9	none	Basic
USA-E-3	SGT/E5	7	none	Basic
USA-E-4	SFC/E7	15	A	Basic
USA-E-5	SGT/E5	4	none	Basic
USA-E-6	SGT/E5	6	none	Basic
USA-E-7	SFC/E7	20	A	Basic
USA-E-8	SFC/E7	15	A	Basic
USA-E-9	SPC/E4	5	A	Basic
USA-E-10	SPC/E4	9		Basic
USA-E-11	CSM/E9	25	C-Infantry School	Basic
USA-E-12	SFC/E7	14	A	Basic
USA-E-13	SPC/E4	5	A	Basic
USA-E-14	MSG/E8	19	C	Basic

USA-E-15	PFC/E2	1	none	Basic
USA-E-16	SPC/E4	3	A	Basic
USA-E-17	SGM/E9	26	A	Basic
USA-E-18	SFC/E7	22	A	Basic
USA-E-19	SGT/E5	0.5	A	Basic
USA-E-20	SFC/E7	13	A	Basic
USA-E-21	SFC/E7	18	C-USFK	Basic

USN-O-1	LT	6	A	OCS
USN-O-2	LT	5	none	Basic
USN-O-3	LT	14	A	Basic
USN-O-4	LT	5	A	ROTC
USN-O-5	LT	6	A	A/R/O
USN-O-6	LT	15	B-JEST/Jungle Environ	Basic
USN-O-7	LT	5	none	A/R/O
USN-O-8	LT	9	A	A/R/O
USN-O-9	LT	6	none	OCS
USN-O-10	LT	20	A	1st Tech School
USN-O-11	LT	17	A	Basic
USN-O-12	LT	14	A	OCS
USN-O-13	LT	6	A	A/R/O
USN-O-14	LT	6	A	Academy
USN-O-15	LCDR	12	A	ROTC
USN-O-16	LTJG	12+	A	Basic/ROTC
USN-O-17	LTJG	3	A	Academy
USN-O-18	LT	4	A	ROTC
USN-O-19	LT	5	none	OCS
USN-O-20	LT	5	never got it	A/R/O
USN-O-21	LT	3	A	A/R/O
USN-E-1	E7/CTIC	13	C-SV83	Basic
USN-E-2	E8	17	C-SV83	Basic
USN-E-3	E7	17	C	Basic
USN-E-4	CWO2	20	none	Basic
USN-E-5	E8	17	A	Basic
USN-E-6	E7/ABEC	17	A	Basic
USN-E-7	E7/CTAC	18	none	Basic
USN-E-8	E7	18	A	Basic
USN-E-9	E7/CPO	17	none	Basic
USN-E-10	CPO	15	none	Basic
USN-E-11	E7/CPO	16	B-FASOTRAGRWPAC	Basic
USN-E-12	E5	12	A	Basic

USN-E-13	E6	9	A	Basic
USN-E-14	SA	10 months	A	Basic
USN-E-15	SN	1	A	Basic
USN-E-16	E3	3 months	none	Basic
USN-E-17	SN	4 months	none	Basic
USN-E-18	E1/SA	6 months	A	Basic
USN-E-19	E3	6	A	Basic
USN-E-20	PO31E-4	1	A	Basic

USMC-O-1	Captain	8	C-in theater from USAF	A/R/O
USMC-O-2	Captain	10	A	Basic
USMC-O-3	Captain	7	none	Don't remember
USMC-O-4	Captain	16	none	Basic
USMC-O-5	Captain	10	A	A/R/O
USMC-O-6	Major	20	none	Basic
USMC-O-7	Major	15	Don't Know/pilot tng	Basic
USMC-O-8	Major	12	none	OCS
USMC-O-9	Major	18	none	Basic
USMC-O-10	Major	13	none	Basic
USMC-O-11	Captain	9	B-SERE school in Maine	SERE School
USMC-O-12	Captain	10	none; E&E plan	A/R/O
USMC-O-13	Major	9.5	B-USAFA	Academy
USMC-O-14	Captain	6	A	ROTC
USMC-O-15	Major	16	A	Basic
USMC-O-16	Major	11	A	A/R/O
USMC-O-17	Captain	10	A	Basic
USMC-O-18	Captain	10	B-flight school	Basic
USMC-O-19	Captain	5	B-unit/INF BN	ROTC
USMC-O-20	Captain	10	C-Coronado	OCS
USMC-O-21	Major	14	B-USAFA	Academy
USMC-E-1	LCpl/E3	1	A	Basic
USMC-E-2	PFC/E2	1	A	Basic
USMC-E-3	GySgt/E7	19	A	Basic

USMC-E-4	PFC/E2	7 months	A	Basic
USMC-E-5	PFC/E2	less than 1	A	Basic
USMC-E-6	Pvt/E1	6 months	A	Basic
USMC-E-7	Pvt/E1	6 months	A	Basic
USMC-E-8	LCpl/E3	2	A	Basic
USMC-E-9	Pvt/E1	1	A	Basic
USMC-E-10	PFC/E2	10 months	A	Basic
USMC-E-11	PFC/E2	6 months	A	Basic
USMC-E-12	LCpl/E3	5	B-Fairchild	Basic
USMC-E-13	LCpl/E3	1.8	A	Basic
USMC-E-14	PFC/E2	7 months	A	Basic
USMC-E-15	LCpl/E3	1	A	Basic
USMC-E-16	Pvt/E1	9 months	A	Basic
USMC-E-17	LCpl/E3	1.5	A	Basic
USMC-E-18	PFC/E2	9 months	A	Basic
USMC-E-19	LCpl/E3	1	A	Basic
USMC-E-20	PFC/E2	7 months	A	Basic

ID Number	Rank	Service	Yrs in Service	Country
I-1	CPT	Navy	12	Unk-Europe
I-2	LCDR	Navy	21	Greece
I-3	O2	Army	3	Uzbekistan
I-4	O6	Army	25	Mongolia
I-5	O3	Army	10	Poland
I-6	Capt/O3	Air Force	9	Poland
I-7	LTC	Army	21	Bulgaria
I-8	1Lt	Army	5	Turkey
I-9	O2	Army	3	Uzbekistan
I-10	LtJG	Navy	4	Turkey
I-11	LT1	Army	3	Czech Rep
I-12	O2	Army	8	Hungary
I-13	Lt Col	Air Force	18	Indonesia
I-14	CDR	Navy	21	Greece

I-15	Lt Col	Air Force	23	Czechia
I-16	1Lt	Air Force	8	Turkey
I-17	Lt Col	Air Force	20	Pakistan
I-18	Lt Col	Army	20	Pakistan
I-19	LTC	Army	24	Czech Rep
I-20	COL	Army	25	Jordan

A. AMERICAN MILITARY OFFICER AND ENLISTED PERSONNEL QUESTIONNAIRE

The Code of Conduct: Is it relevant in today's asymmetric threat environment?

The purpose of this survey is to examine the opinions of military personnel regarding the effectiveness of the Code of Conduct (CoC) against asymmetric threats. As America transitions away from a "major theater war" posture and increases participation in "operations other than war," the Department of Defense must consider the impact of different capture situations (i.e. prisoner of war, hostage, or detainee) on U.S. forces serving with interagency and coalition partners. All responses are nonattributable unless the respondent provides contact data for citation in the final report. Please address questions to Major Laura Ryan, lmryan@nps.edu or 831-643-9093.

Rank/Grade:_____Service:_____Yrs in Service:_____

1. When did you first receive CoC training?

Academy/ROTC/OTS/OCS Basic Training First technical training school

First unit of assignment Other (please specify):_____

2. Have you received yearly refresher training?

Yes Format: Video/Computer/Briefing/Pamphlet/Other

No

3. What is your highest level of Survival, Evasion, Resistance, Escape (SERE) training?

Level A (all members/yearly)

Level B (moderate risk of capture) Source:

Level C (high risk of capture) Source:

4. Can you recite the six articles of the CoC verbatim?

All Most Some None

5. Can you discuss the basic ideas/guidance contained within the six Codes?

All Most Some None

6. Do you believe that the CoC should remain strictly a moral guide or become a legally binding code?

Moral guide Code of law

7. Do you understand the relationship between the CoC, the Uniform Code of Military Justice, and the Geneva Conventions?

Yes No

8. Do you think that the DoD and/or U.S. government should create a “code of conduct” for civilians working with military personnel?

Yes No

Please review the CoC and answer the questions below.

I. I am an American, fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense.

II. I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist.

III. If I am captured I will continue to resist by all means available. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy.

IV. If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way.

V. When questioned, should I become a prisoner of war, I am required to give name, rank, service number, and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause.

VI. I will never forget that I am an American fighting for freedom, responsible for my action, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America.

9. Do you believe that the CoC, as currently written, is applicable to hostile peacetime government detention situations (i.e. The EP-3 crew in China)?

Yes

No

10. Do you believe that the CoC, as currently written, is applicable to political prisoner/hostage situations (i.e. The American Embassy in Iran; CW3 Durant in Somalia)?

Yes

No

11. Do you believe that the CoC, as currently written, is applicable to terrorist hostage situations (i.e. General Dozier in Italy)?

Yes

No

12. Do you believe that the CoC is still relevant?

Yes

No

13. Do you believe that the CoC should be reworded to address the new threat spectrum and captivity environment?

Yes

No

Comments/Recommendations (continue on the back of the page if necessary)

B. INTERNATIONAL MILITARY OFFICER QUESTIONNAIRE

Conduct After Capture Training: Is it relevant in today's threat environment?

The purpose of this survey is to examine the opinions of international military personnel regarding the effectiveness of conduct after capture (CAC) training against asymmetric threats. Many countries originally developed CAC training to prepare for a conventional "prisoner of war" situation. With the increased emphasis on "operations other than war," many nations must address detention and hostages situations. All survey responses are nonattributable/anonymous unless the respondent provides contact data for citation in the final thesis report. Please address any questions to Major Laura Ryan, lryan@nps.edu or 831-643-9093.

Rank/Grade:_____Service:_____Yrs in Service:_____

Country:_____

1. Does your country have a Code of Conduct After Capture (CCAC)?

Yes/When was it created?_____NoNot Sure

2. When did you first receive after-capture training?

Commissioning Source First technical training school

First unit of assignment Other (please specify):_____

3. Do you receive yearly after-capture training?

Yes/Format: Video/Computer/Briefing/Pamphlet/Other

No

4. Is your CCAC a moral guide or a legally binding code?

Moral guide Code of law Not sure

5. Do you think that civilians working/deployed with military personnel should have a Code of Conduct After Capture and receive after-capture training?

YesNoNot sure

6. Do you believe that your after-capture training is applicable to peacetime government detention situations (i.e. you are captured by the forces of a recognized/legitimate government during a peacetime/routine mission or operations other than war)?

Yes

No

Not sure

7. Do you believe that your after-capture training is applicable to a political prisoner/hostage situation (i.e. you are captured by a non-government/non-terrorist organization during peacetime or operations other than war)?

Yes

No

Not sure

8. Do you believe that your CCAC is applicable to a terrorist hostage situation?

Yes

No

Not sure

Comments/Recommendations

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